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ON

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HEARINGS

HELD AT

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ROYAL COMMISSION ON TAXATION

Hearing held in Howard Ferguson Auditorium, Sir Daniel Wilson Residence of University College, University of Toronto, Toronto, Ontario, on Wednesday, the 8th day of May, 1963.

COMMISSION:

MR. KENNETH LeM. CARTER - Chairman

MR. J. HARVEY PERRY

MR. A. EMILE BEAUVAIS

MR. DONALD G. GRANT

MRS. S.M. MILNE

MR. CHARLES E.S. WALLS

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PROF. D.G. HARTLE

SECRETARY:

MR. G.L.BENNETT

ANGUS, STONEHOUSE & CO. LTD.
TORONTO, ONTARIO

ROYAL COMMISSION ON TAXATION

HEARINGS HELD AT THE CITY OF TORONTO, ONTARIO

May 8, I963

TOPICAL INDEX — VOLUME No. I6

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ANGUS. STONEHOUSE & CO. LTD.
TORONTO, ONTARIO

Toronto, May 8, I963

Canadian Federation of Business and Professional Women's Clubs

Volume No. I6

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Toronto, Ontario
Wednesday,
May 8, 1963.

MT/ss

---On commencing at 9:30 a.m.

THE CHAIRMAN: Miss MacGill, it is about 9:25. We can wait the other five minutes, but if you are completely ready to go, we may as well start ahead of time. Does it suit you?

MISS MacGILL: What about the press, Mr. Carter? Will we get any further ones? Will we lose the advantage?

THE CHAIRMAN: You might lose the advantage.

MISS MacGILL: Then if you don't mind, we would rather wait.

THE CHAIRMAN: I think you have a point.

It is now 9:30. Mr. Secretary, is there any business before we commence with this morning's hearing?

THE SECRETARY: No business.

THE CHAIRMAN: Would you introduce our visitors to us?

THE SECRETARY: Mr. Chairman and Commissioners, this morning we have with us Miss Elsie G. MacGill, Miss G.C. Conmee, C.A., and Miss C. Van Dine, officers of the Canadian Federation of Business and Professional Women's Clubs. Miss MacGill will speak to this brief which was received in the Commission's Offices earlier. I would like to enter it into the record as Exhibit 51.

---EXHIBIT NO. 51: Submission of the Canadian Federation of Business and Professional Women's Clubs.

SUBMISSION OF

THE CANADIAN FEDERATION OF BUSINESS AND PROFESSIONAL WOMEN'S CLUBS

APPEARANCES:

Miss Elsie G. MacGill - President
Miss G.C. Conmee, C.A.
Miss C. Van Dine

THE CHAIRMAN: Thank you, Mr. Secretary. Good morning, Miss MacGill and ladies. We have received your brief. We have examined it and we have some questions to put to you. Usually before questions the person appearing likes to speak to it, to amplify it or modify it or merely to summarize what is here, and that is certainly your privilege if you wish to do so. There is no need to read it to us. We have already done so. Would you care to speak to it and you may remain seated.

MISS MacGILL: Thank you very much. We do welcome this opportunity of presenting the material to the Commission on behalf of our Federation. We have prepared a brief, as you see, in the way specified and have put up a summary of recommendations which I gather you do not care to have us read as you have all done that.

THE CHAIRMAN: You may speak to it if you wish.

MISS MacGILL: We would like to invite the attention of the Commission to the fact that our organization is a non-sectarian, non-partisan organization without share capital and without purposes of gain for its membership. I think it is important in that we are not a professional organization in the sense that we are not connected with taxation or taxation business, and we are

interested on behalf of our membership in particular.

We have outlined our purposes and objectives on page 3, and I will not proceed with those. Our submission takes the form of a series of recommendations on both policy and practice with accompanying arguments in support of the recommendations. The recommendations dealing with practice are limited chiefly to the inequities and disabilities that create hardship for working women.

If we turn to page 4 we see our first recommendation. Our recommendations are, of course, amplified in our appendices.

The first recommendation is that the Commission recognize taxation as a powerful instrument in the hands of Government for the control and manipulation of the Canadian economy. In this instance we are inviting the Commission's attention, of course, to the entire field of Federal taxation while we ourselves are limiting our specific recommendations to the field of personal income tax and estate tax. Throughout this discussion we recognize that personal income tax and estate taxes are tools in the hands of Government which it can use at will to control economy.

We proceed to outline that there has been a considerable increase in technological development and industrialization. An example of this of course is in January, 1960, there were 89 computers in use in Canada and in January, 1962, there were 300 computers being used in Canada. This I think is some indication of the kind of development that has gone on. The industrialization process; we will not amplify that.

Along with this has come a steady rise in average income, especially the lower income groups, and the purchasing power, especially of the lower income groups, has greatly increased and has given rise to a further spiralling upward of national productivity and expansion.

We recognize too the Government is dependent upon economic growth and industrial expansion for the maintenance of a sufficient flow of revenue, and we note there that the graduated personal income tax rates profoundly influence the decisions and capacities of individuals with respect to (a) spending, saving and investing, and (b) the acquisition and employment of skills.

3 We then discuss the effect with respect to spending by individuals, and we note that tax incentives which increase personal disposable income or real purchasing power may produce immediate stimulation of purchases, particularly for lower income groups with a consequent increase in business and employment.

With respect to saving and investing, we also note that some experts believe that the levels of taxation which have prevailed since World War II have severely hampered the ability of Canadian individuals to save and invest their savings, and that this has considerably more to do with the failure of Canadians to invest adequately in their own economy than any lack of enterprising spirit in the Canadian character.

With respect to (b) we consider that the ability and willingness of individuals to acquire and employ skills

are a most important national asset, and we invite your attention to discover whether or not our steeply-graduated personal income tax rates provide sufficient incentive to induce our people to equip themselves to make the maximum contribution of which they are capable.

We discuss the general formation and build-up of the tax law, and note the tax exemption of one class of person has sometimes produced an inequity for another, and the general result has been to shift an increasing proportion of the taxation burden onto a diminishing core of unrelieved taxpayers.

We recognize under any tax structure a variety of systems is possible, and we note several of these. This does not exhaust, of course, the variety.

We then go on to recommend that the Commission formulate general policy regarding the use by Government of taxation as an instrument for the control and manipulation of the Canadian economy, and here we bring forward the point that the taxation policy is an expression of the prevailing social attitudes of a nation. This becomes apparent as we watch the emerging nations changing from a peasant and rural society to an industrialized and urban one. In them we recognize readily that social attitudes can be an endemic cause of low output per capita, and that before they can fully develop economically they must change their customs and transform their 4 society into something quite different. We find, however, it is perhaps difficult for Canadians generally to recognize in Canada, too, that social attitudes must change before economic change is possible, and here we

have in mind that Canada also has a caste system in its arbitrary division of labour into women's work and men's work, and that our social thinking makes it very hard to change over.

We consider that before an all-out industrialization can develop or function in Canada, the Canadian traditional social attitudes towards women must change. One of these traditional views which is still reflected in our current taxing statutes is the lack of acceptance of the potential economic contribution obtainable from married and single women, with the oonsequent waste today of a significant proportion of the nation's ability and capacity.

We believe that the taxing statutes should be voided of their skeptical and belittling attitude toward the economic contributions of married women, and should accord married women the same acceptance granted to men and to single women.

We then outline other changes which we believe will come and which the taxation statute may not directly affect, and these are to do with the social attitudes which we believe bear heavily on women and make it difficult for the country to obtain the value of the services which are latent in them. I will not go on to enumerate those. They are all outlined there with (A), (B), (C), (D), (E) and (F).

We note each such change listed above is a reversal of traditional but still current Canadian thought which is the basis of today's Canadian law and custom. These traditional views belong to an earlier and different

way of life in Canada, when women generally lacked professional knowledge and vocational training, when they worked for very low wages or for no wages at all, when the wife's legal and social identification was completely submerged in that of her husband. These conditions no longer obtain. The attitudes are changing and will continue to change and probably at an increased tempo. Canadian social and economic development requires and depends upon a better utilization of Canadian talent. In this respect I would like to point out that one of our members at this Commission, Miss Conmee, is a chartered accountant. Miss Van Dine is an expert in estate tax, and I am a professional engineer.

The change of condition which brings an advantage at one point may bring a disadvantage at another, and that which benefits one person may penalize another. Equality of opportunities and rewards calls for equality of sacrifice, and we recognize that this is the price that women, no less than men, will pay as Canada sloughs off her traditional ways.

We consider that Canadian life, particularly family life, will not deteriorate as a result of these changes. On the contrary, we strongly believe that the changes that we envisage here will enrich Canadian life on all fronts.

Now, Mr. Commissioner, with your permission I would like Miss Conmee to discuss income tax changes.

THE CHAIRMAN: By all means.

5 MISS CONMEE: First I would like to join Miss MacGill in expressing our appreciation at this opportunity

to present our views.

My remarks concern recommendations 2 to 6 inclusive contained in our written submission all of which are confined to the field of personal income tax, and specifically to those provisions which are of particular interest in view of the aims and objectives of our organization.

At the outset I wish to assure you that we recognize first, that the flow of revenue must be sufficient to support Government expenditure, and second, that the personal income tax currently provides almost 1/3 of total budgetary revenue.

My task is not to argue with the proportion of the whole contributed by the personal income tax, but rather to seek justice and equity as between individual personal income taxpayers, insofar as this is possible in view of the complexity of the statute and its subject matter. I am sure the Commission is wholly in accord with the principle expressed here, and therefore will be interested in those aspects of the statute and its application which in our view produce injustice and inequity.

Our first specific recommendation relates to Section 21 of The Income Tax Act which contains provisions with respect to husband and wife. We are concerned with:

<u>Subsection 2</u> - Which deals with the situation when a person is an employee of his or her spouse:

<u>Subsection 3</u> - Which applies when a person is employed by a partnership in which his or her

spouse is a partner:

Subsection 4 - Which applies when a husband and wife conduct a business in partnership with each other.

We submit that these three sub-sections work unfair and unjustifiable hardship on married couples who work together in an employer-employee relationship or in partnership, and we recommend that they be repealed.

Two of the three subsections concern the employer-employee situation, and I shall deal with them first. For clarity of discussion I shall assume that the husband employs the wife, although I hasten to add that the provision has the same effect when the opposite is the case.

To state what these provisions do not prohibit -- they do not prohibit a man from employing his wife in his business and, if he does so, they do not prevent him from paying her a salary. If he does pay her a salary, however, these subsections do two things: -

1. They prohibit the husband from deducting as a business expense the salary paid to his wife;
2. they require that the wife's salary shall be included in computing the husband's income and excluded in computing the wife's income.

Before proceeding with an example which will illustrate the tax consequences of these provisions, I would like you to consider the following points: -

1. Income from a proprietorship or partnership is taxable at personal income tax rates:
2. Salary and other remuneration arising from

employment is also taxable at personal income tax rates:

3. Generally speaking, expenses are deductible if made or incurred by a taxpayer for the purpose of producing income from a business:

4. If instead of employing his wife, the husband employed some other person, including the wife of someone else, his income would be net of remuneration paid, and the employee would be taxable on the remuneration received:

5. Since personal income tax is imposed at progressively higher rates as the income increases, it is apparent that a married couple suffer a tax penalty if the wife works for her husband, and that they would be better off if she worked for somebody else.

At this stage it might be appropriate to introduce my example. I have used the table from The National Finances 1962-1963, Table 10, on page 24 which sets forth the Federal personal income tax for a single taxpayer with no dependents, and I have used the 1961 column so we do not complicate it in the Federal tax abatement.

I am supposing a husband owns a children's wear store in a shopping plaza and his wife works regular hours as a sales clerk in the store. The income before deduction of any salary for the wife is $5,000.00 and a reasonable salary for the wife would be $2,000.00. If the husband alone pays tax, the tax would be $591.00 on his income alone.

If, on the other hand, the husband pays tax on $3,000.00 and the wife on $2,000.00, then the tax will be $335.00.

If the wife clerked instead in some other store, say, the ladies' wear store next door, earning $2,000.00, and the husband hired a replacement clerk for $2,000.00, say, by a swapping of wives, the tax saving to the family unit would be $256.00 or 43% of the tax now paid by the husband.

To carry this a little further and suppose the husband owns two stores, and that the wife manages one, and that the total income before deduction of any salary for the wife is $15,000.00, and a reasonable salary for the wife would be $5,000.00. In this case the husband alone taxed on the whole of the $15,000.00 would pay income tax of $3,630.00. On the other hand, if the husband is taxed on $10,000.00 and the wife on $5,000.00, the total tax would be $2,431.00. Here the savings resulting from a substitution of managers would be $1,199.00 or 33% of the tax now paid by the husband.

Now, I think everyone will agree that, in cases of a genuine employer-employee relationship, this is a most unjust and inequitable tax penalty imposed upon taxpayers who fall within its bounds, and for no reason other than the marital relationship.

There are, of course, ways to avoid this extra tax burden, two of which come readily to mind: -

1. The employee spouse can work for a business owned by someone other than her husband;
2. the business can be incorporated.

In connection with the latter, the Act recognizes the corporation and its principal shareholder as two separate entities; therefore, there is no problem if the separate entity which is the corporation pays the spouse of the principal shareholder a salary which is reasonable in view of the services performed.

I think it is fair to assume that the majority of those who are currently suffering from this particular hardship are small business men and women who are unaware that any form of relief is possible or, if they are aware of this, feel they cannot afford to seek advice, or cannot afford the remedies suggested.

There are a great many small businesses in Canada, retail stores, service organizations, and the like. They are examples of independent initiative in the creation of commerce and business and merit encouragement. Although the principle involved is the same whether the business remains small or grows, it is nevertheless true that many large businesses emerge from very small beginnings. If the wife or husband, as the case may be, can contribute services to the enterprise as an employee, it may well be, and I know of certain specific cases where this is certainly true, that the loyalty and zeal of the husband or wife to the family business makes them a most superior employee and one capable of contributing significantly to the success of the enterprise.

The underlying reason for this provision appears to be administrative convenience, in that it would be troublesome to establish that services commensurate with the remuneration received have actually been performed

by the employee spouse. This is insufficient reason for continuance of unfair and unjust discrimination against a certain class of taxpayers; further, when both spouses are employed by a corporation of which one is a principal shareholder, very much the same administrative problem exists. If the amount of salary paid is excessive, the Minster can always rely on Section 12 (1) (a). Because we are most anxious, however, that this situation be corrected, we have ventured to suggest an amendment to the Act which would provide that where the service is actually performed and the compensation does not exceed what would be reasonable in the circumstances if the employer and spouse had been dealing at arm's length, the remuneration received by the employee spouse be a deductible expense of the employer spouse in the conduct of the business, and be treated as separate income in the hands of the employee spouse.

B/PB/dpw

This section speaks for itself and I quote "Where a husband and a wife were partners in a business, the income of one spouse from the business for a taxation year may, in the discretion of the Minister, be deemed to belong to the other spouse."

We consider this a most objectionable provision, for reasons apparent from the language of the subsection itself:-

1. "Where a husband and wife were partners in a business" - in laymen's language this might be interpreted as reading where a husband and wife are genuinely in partnership - the provision makes no bones about it.

2. "The income of one spouse ---- may be deemed to belong to the other spouse" - to the laymen (and, it appears, to the courts as well) this means that all of the income must belong to one or the other, and must not be shared in any way between them;

3. This deeming of the income to belong to one or the other spouse is "in the discretion of the Minister" - if the layman really understands what this means, then he is dated because, to the best of our knowledge, all of the other ministerial discretions, with the exception of administrative ones, were removed from the Act in 1949, and no small wonder, because the strongest of representations against the existence of ministerial discretions were made prior to that time by

the most responsible organizations in the country interested in taxation.

As we understand it, ministerial discretion means that the Minister decides, and no court in the land has the right to set aside his decision. Of course, the Minister can change his mind, and this change might be at the instigation of the taxpayer or of the courts, but if the Minister refuses to change his mind, the taxpayer has no recourse and must abide by his decision.

Instances of husband and wife partnerships may not be numerically large, but such partnerships do exist, and there are recorded cases to prove it. There is no need to cite these cases before this Commission, but I would like to state that from these cases it appears:-

1. That the provision applies even if the partnership is genuine;

2. If the Minister exercises his discretion under this provision, he must allocate all of the income to one spouse or the other, and cannot allocate it in any other way;

3. If the Minister does not exercise his discretion, the income will be allocated between the spouses in accordance with the partnership agreement - but no married couple can know with certainty that the discretion will not be exercised.

If the Minister does exercise his discretion, then this provision has all the unjust and inequitable consequences of the employer-employee provision. I might add in conclusion, that there exists a special class of

taxpayers who might well be genuinely in partnership, and who cannot use the device of incorporation in order to avoid this tax inequity. I mean, of course, instances of husband and wife both of whom are members of the same profession, such as doctors, lawyers, etc., and who conduct a professional practice in partnership with each other.

The remainder of our recommendations on personal income tax have to do with exemptions and deductions.

THE CHAIRMAN: Before you move on to this do you think it would be a good procedure to direct our questions to the first recommendations? They are independent of each other, I think.

MISS CONMEE: Yes, by all means, Mr. Carter.

THE CHAIRMAN: It seems to me they would be a little fresher in our minds if we stuck to one at a time.

MISS CONMEE: Certainly.

THE CHAIRMAN: I think what we would like to do is deal with your first recommendation as to income tax, which is an extremely interesting one. One general question which I would like to put to you concerns the matter of taxing the family as opposed to the individual. You have referred to that in Miss MacGill's general remarks.

MISS MacGILL: Taxing what - the family, pardon me.

THE CHAIRMAN: The family, as opposed to the individual. Certainly, splitting income would be one way of doing it. It is only one way of doing it. There are other ways. You haven't addressed yourself to it in detail. You have merely referred to it and directed the attention of the Commission to it. It would seem to me if

you are serious in such a recommendation, the effect of that recommendation would make your last recommendation quite unnecessary. Am I not correct?

MISS MacGILL: Mr. Chairman, if you will excuse me, I would like to interrupt. You must remember we are a Federation and we can go so far as our membership dictates. Our membership have already passed these particular amendments to the Income Tax and Estate Tax Acts as resolutions at conferences. We are bound to produce them. We believe in them, of course, but I mean this is where they originate. They originate with the membership, not just with what you might call the brains trust, so we are forced to bring them forward. We are not a taxing body and we don't set ourselves up as experts. Miss Conmee might have other answers, but I think that should be brought to the attention of the Commission.

THE CHAIRMAN: The items at the bottom of page 5 set forth as A, B and C are not recommendations because they haven't received the approval of your Federation.

MISS MacGILL: They are not recommendations because they haven't received approval of our membership or consideration of our membership. They are not adopted either. We know there are other ways of doing these things. That is why we comment on the fact there are a variety of systems possible. For example, there is the averaging of income. There are many ways we realize we haven't commented on, but we do note one or two that we think might be of importance and we feel should be given thought.

THE CHAIRMAN: My question still stands; perhaps in a slightly different form. It would be: should the

country adopt a means of taxation which included income splitting would that not make such recommendations as you are now putting foward in No. 1 unnecessary?

MISS MacGILL: I couldn't answer that.

THE CHAIRMAN: Miss Conmee could.

MISS CONMEE: I am not so sure. I haven't made a real study of all the effects of this in the United States. I confess I am far from having any expert knowledge of it at all. For the reasons Miss MacGill stated I confined myself to the resolutions we had.

THE CHAIRMAN: Fine.

MISS MacGILL: The other thing is this: I don't think bodies like us can take one single item like that and say, "Let us have split income," because there are so many other things that could vary it. The whole tax plan has to be considered and that is the real point of our memorandum, that you can't just pick and choose. We are picking and choosing. Our organization has no other way, but the Commission, we believe, will help greatly in this. It will be able to consider the whole field of recommendations and produce a plan which will co-ordinate them all. That is why we don't propose, or would never intend to suggest, any particular system that would simply note our own particular interest in the matter.

THE CHAIRMAN: Thank you, Miss MacGill. You have, on page 5, drawn our attention to one of the most important matters of taxation; the matter of tax on the family as opposed to the individual. That strikes at the base of our personal income tax when you draw our attention to that. If you have views we would sincerely like to

receive them. We note that you don't have views on that, so accordingly we will restrict ourselves to the specific matters that you are putting forward.

MISS MacGILL: Thank you.

THE CHAIRMAN: If you would care, at some future time, to come forward with further views we would be very glad to receive them. Has anyone any questions on No. 1?

COMMISSIONER MILNE: Mr. Chairman, just for the record, I think it would be well to have it written into our Secretary's notes that the witness here has prepared a brochure which is attached but is not shown as an official exhibit. I think, Miss MacGill, in the brief itself you spoke of 174 clubs. I think possibly you might note approximately your total membership.

MISS MacGILL: Seven thousand.

COMMISSIONER MILNE: Seven thousand. Another thing that I think might be useful to have on record is the fact that as a Federation you have the privilege of approaching the Federal Cabinet with resolutions. You have indicated already that some of the items here contained have been considered and have been voted upon by your general membership and others have come forward from clubs. Would you indicate the authority that was vested to bring this forward?

MISS MacGILL: Recommendation 2 was a convention resolution. Recommendation 3 was not, but it has been put up by our membership and is being considered at our meeting of the Board of Directors in June. We consider it as an expression of opinion of the membership. It comes from the membership in that these recommendations

come through a club. Recommendation 4 is a convention recommendation.

COMMISSIONER GRANT: Would you take it a little more slowly. Recommendation 2 is a convention recommendation?

MISS MacGILL: Yes. Recommendation 3 is pending as a Federation resolution.

COMMISSIONER GRANT: It is pending. It has not been before a convention?

MISS MacGILL: Not yet, no.

COMMISSIONER GRANT: Do we understand these are not for detailed discussion?

MISS MacGILL: These are for detailed discussion, oh, yes, because it does come from the membership, and all our clubs by now have considered it. We have had no adverse comment on it. It virtually is as good as passed, you see, because of this fact. This resolution went out to our clubs last January, so they have had ample time to send in any comments that are adverse.

THE CHAIRMAN: I take it, Miss MacGill, then, it is in the same category as the other recommendation, from our point of view?

MISS MacGILL: I would request that. Recommendation 4 is a convention resolution. Recommendation 5 is a convention resolution. Recommendation 6 is not a convention resolution, but it is in the same category as Recommendation 3. It has come from a club and it has gone out to our other clubs and it has the support of the Federation membership. Recommendation 7 is pending, also. This has also gone out through a club to our membership and as a

Federation - it has the support of the clubs in the Federation.

Recommendation 8 is a convention resolution.

COMMISSIONER MILNE: The question I want to put forward now will deal with Recommendation No. 2. The example, Miss Conmee, that you gave was certainly quite clear in relation to the tax which would apply. You said the husband had an income of $5,000, the wife an income of $200 and $591 tax. Do you see that example?

MISS CONMEE: Yes.

COMMISSIONER MILNE: The application was quite clear and certainly it merits the consideration of the Commission. This area is certainly one that we are not only considering the position in Canada but we are looking at the application of taxation of the family unit in other countries, not only the United States.

One thing we feel we should point out to you is that while, in your example, you show what the tax would be, if this were taxed in a different manner, whether there was income splitting or a joint return, some other tax structure would be required. It would have to be completely revised so that the figures that you give us as being the tax applicable, possibly, wouldn't apply.

MISS CONMEE: No, but these are the taxes that applied out of the law as it stands.

COMMISSIONER MILNE: I think you feel this is an area that the Commission should concern itself with to see the best, most equal way of dealing with income of husbands and wives who share jointly in a business venture.

MISS CONMEE: That is correct.

COMMISSIONER MILNE: Rather than specifying the tax at this time, the tax applying?

MISS CONMEE: That is correct. We are just trying to point out at the moment there is a discriminatory element to this.

COMMISSIONER MILNE: Another thing I would like to interject at this point: you use the word "hardship." I can see inequality; I can see injustice, but do you really think there is a hardship? That is the point I would like to bring up.

MISS CONMEE: Mrs. Milne, I would say if someone had a small business - let us say they were starting this business and the husband and wife were working together and in comparison with someone else starting a small business, if they had to pay more income tax, bear this additional cost that the competitor wouldn't have, I would say that definitely is a hardship. It would be a hardship even if it wasn't a small business; if they had to pay more tax than others in a similar situation, in a similar type of business.

COMMISSIONER MILNE: I mention that particularly because I can see one example where it applies personally, because I happened, at one time, to have been in that position you speak about; a wife employed as being a person who would give a loyalty you would never find in any other paid employee. I think you will find that works all across the country. I don't think there would be any argument there.

I think often in this sort of venture, and possibly I am speaking against my sex here, but I think there is this feeling in the partnership that the husband

is so willing and wants so much to have the help of his wife in this venture that the tax implication is not a hardship, it is just something he bears as a cost because he always has the alternative of not employing his wife. He can employ some other person.

I can see your position; you see it in a different way.

MISS CONMEE: For instance, the second example was the $15,000 income - there is a big difference between having to pay $3,600 in taxes and paying $2,400. That is quite a difference and I would consider it to be a hardship.

COMMISSIONER MILNE: I don't want to argue. It was just that I wanted to draw you out on the words "hardship." Thank you.

MISS MacGILL: Mrs. Milne, with great respect, may I add a point? This is the kind of conventional thinking which we are complaining about, that there is always this element brought in when women are considered, that there is another aspect to it other than a straight business aspect.

J/MR/dpw

MISS MacGILL: That is one of the things that we believe, in Canada, will have to change, and is changing. This is part of our social thinking, as Gailbraith calls the conventional wisdom. Personally, myself, I believe that those are the things that we must change. There are many, many people, no doubt, who would take that point of view, but it is outmoded, if I may say, with great respect, in our opinion.

COMMISSIONER GRANT: I might make an observation on that, with respect to the suggested amendment which appears on page 9. I should think you have equity on your side. Equity has many feminine characteristics. It comes to, I think, fulfil the law more adequately rather than to supplant it.

Now, your difficulty would be, I should think, in the words "where the service is actually performed" and further down in the suggested amendment that provision where "the employer and spouse had been dealing at arm's length." Probably - this is only speculation - but probably the reason why the Act does not read as you would like it is because of the danger that there is of breaching the law, of abusing the law.

I think, in your brief, that you dismiss that as not being an adequate reason. Now, to date, if my interpretation is correct, the reason the Act has not been changed and that subsection 4 remains as it has is because it opens the door to abuse.

Would you have anything to say on that?

MISS CONMEE: Mr. Grant, I think in my comments here I did say something that I consider the small,

privately-owned corporations where, if the wife is able to make a contribution, she could be employed and she could be in a position of being a partner even if she were put in this position by owning part of the stock.

From an administrative point of view, from the point of view of abuse, I think this is hitting at a different class of taxpayer. It tends to hit the smaller businessman. I think this is a problem we already have.

I also think there does exist - the only one I can think of is 12(1)(a) which does exist, that if people did start to abuse this, we would quickly build up some case law to define, possibly, the bounds within which a genuine employer-employee relationship could exist.

COMMISSIONER GRANT: I should think, Miss Conmee, so much of it depends on the facts. The interpretation of law could be regarded today as clear. For instance, you would have to have the services actually performed. There is a question: is it being performed or isn't it? Or is the wife merely on the payroll so as to reduce the husband's tax on his withdrawals from the partnership?

Now, as you have pointed out there is a way of getting around it but it is not open to everyone and it sometimes puts the small businessman, as you have pointed out, at a distinct disadvantage. Incorporation is the way around it, but that, in itself, is not open to everyone. I suppose that it should not be forced on them.

MISS CONMEE: That is correct; and also admitting that there is a probability of abuse, even going so far as to say there is a probability of abuse under this, this is not an uncommon situation. The employer-employee

situation must be the most common situation there is. There must be countless little stores where the wife is actually working and just because this is somewhat of a nuisance from an administrative point of view, I still don't think that these people should be treated differently for tax purposes than anyone else. I don't think there is anything equitable about that at all.

THE CHAIRMAN: I certainly agree that Miss Conmee has got a very strong point in what she says. I am not sure this is the solution. It may well be. I don't know. If one moves the point of discrimination from where it is now, because of this particular section to which you object, would you not then, perhaps, provide the housewife with a complaint? In these small stores, of which you speak, across the country, I suggest that a lot of these wives have the choice of working in the kitchen or working in the store. The ones that work in the kitchen would think they are being unfairly treated if they did not get the same deductions or same treatment as the ones that work in the store. I don't know. I raise the question thinking, perhaps, the only answer is in a different way of taxing the whole family, which is outside your reference.

MISS MacGILL: I am a little surprised, Mr. Carter, if you don't mind my saying so. I just don't feel that that is exactly relevant.

THE CHAIRMAN: You don't think that the wife, who serves in the kitchen, might complain that the wife who serves in the store gets a salary and is entitled to a deduction?

MISS MacGILL: I think this: that the wife who serves in the kitchen is serving and that our laws are not correct on that point; and we made the point, too, that the whole system of family law is outmoded. We would like to see changes which would make that wife a partner in her husband's estate, for example.

THE CHAIRMAN: That is the wife who serves in the kitchen?

MISS MacGILL: The wife who serves in the kitchen, or any other wife, for that matter. The wife who is in the store is doing another kind of job. She is in business and we are now discussing business income tax matters. We are not discussing home income tax matters.

One other point, Mr. Carter: do we write the income tax laws in fear of abuse?

THE CHAIRMAN: No, I am not suggesting that for one minute.

MISS MacGILL: Mr. Grant brought up this point of abuse. Do we write the income tax law just because we are afraid that it will be abused? If that is the basis on which our income tax law has recently been written, I wonder if that is not something that the Commission might also consider?

THE CHAIRMAN: You heard more from Mr. Grant than I did.

MISS MacGILL: I am sorry.

THE CHAIRMAN: Miss Conmee, would you care to go on to Recommendation 3?

MISS CONMEE: Yes. I had started off to say that the meat of our recommendations had to do with exemptions

and deductions. These are of enormous importance in our personal income tax structure. According to the National Finances 1962-1963, published by Canadian Tax Foundation, out of an estimated working force of 6.6 million for 1962, only 4.6 million or about 70% would be paying personal income tax. For some 2 million workers therefore, personal exemptions and deductions exceed the income, thus removing such income from the personal income tax base. According to taxation statistics issued by the Department of National Revenue, and ending with 1959, personal exemptions and deductions would, for the remaining 70% of the working force, reduce their assessed income by almost 50%. In other words, the personal income tax base is something like one-half of the income of 70% of the workers.

On the other hand, after-tax personal incomes make a most significant contribution to the commodity and corporation income tax bases.

These are just some of the highlights, greatly oversimplified, of the extremely complex background against which any recommendations for changes in the exemption and deduction system must be considered.

Our next specific recommendation relates to Section 26, subsection 1, of the Income Tax Act.

Paragraph (e) of the said subsection provides for an extra exemption of $500. In the case of a taxpayer who is 65 years of age or over.

We are recommending that Section 26 be amended to provide an additional exemption of $500 to the taxpayer on behalf of a dependant where both taxpayer and dependant are 65 years of age or over.

We understand that in the United States an additional exemption of $600 is given for taxpayers over 65 years of age, and is extended to the taxpayer's spouse as well. We have in mind that both the taxpayer and the dependant must be over 65 years of age, but are extending this to include dependants other than the spouse in such circumstances.

We are concerned here with elderly people who are living on retirement income. Such income generally represents the savings accumulated over the working lifetime of the taxpayer. If past trends continue, it is obvious that savings accumulated during the early and middle working years represent less in terms of real purchasing power than when the funds were tucked away. Furthermore, where both the taxpayer and dependant are elderly, their expenses connected with illness, and for attendants needed for nursing and housekeeping service may well increase steeply.

Our recommendation is directed toward alleviating this hardship for couples, related by blood or marriage, both of whom are elderly, who have established a home together which, in the face of rising costs that come with age, they find difficult to maintain.

THE CHAIRMAN: Thank you, Miss Conmee. I don't think we have any questions on that recommendation. I think we fully understand the submission. Will you go on to the next one?

MISS CONMEE: Moving on to our fourth recommendation, which also relates to Section 26, subsection 1, we are asking that this subsection be amended to provide

an additional exemption of $1,000 for housekeeping services, similar to that now permitted to the unmarried clergyman or minister, and that this exemption would be granted to working women and to certain others.

We understand that in the United States there is an allowance for what is termed "child care." To indicate more specifically what we have in mind, I quote from a tax paper entitled "Personal Exemptions and Deductions under the Income Tax" written by Gwyneth McGregor and published by The Canadian Tax Foundation:

> "A new allowance was introduced in the 1954 code in the shape of a child care allowance for working mothers. A deduction of up to $600 was given to working women, widowers and divorced persons for actual expenses incurred in the care of a child under 12 or of any dependant, including a working wife's husband, mentally or physically incapable of looking after himself. The deduction was also made available to all working wives who file joint returns, provided that the combined income of the spouses does not exceed $4,500 after the deduction.
>
> "Neither the $600 limitation nor the income limitation applies if the taxpayer's husband is incapable of supporting her because he is mentally or physically incapacitated.
>
> "The regulations pertaining to this section state, inter alia, that the $600 limitation, where applicable, may not exceed that figure

regardless of the number of dependants; that widower includes a divorced or a legally separated man; that the deduction is allowed without the limitations to a single woman or one who is divorced or legally separated."

We take it that the purpose of this provision is to permit the taxpayer to engage paid help at home in order that he himself may take gainful employment. We are, therefore, asking for a "housekeeping services" rather than a "child care" exemption.

Our reasons for this recommendation are quite fully stated at pages 13 and 14 of our written submission, and might be summarized as (1) relief of hardship; (2) equity of treatment as between taxpayers; (3) social and economic change involving ever-increasing employment of women; (4) widening of the tax base; (5) releasing women of ability and talent for the benefit of the community, while at the same time increasing the number of housekeeping jobs available.

I might add a word about the objections most likely to be raised in connection with this recommendation. These most probably would be:-

1. Possibility of abuse;

2. Reduction in the flow of tax revenue.

In connection with abuse, I should think that the exemptions should not in any case be allowed to exceed the excess of earned income over other personal exemptions permitted to the taxpayer. Also, if there is any suspicion of abuse in the matter of reporting salaries for housekeeping

services by employer, employee, or both, this could quickly be remedied by requiring proof of payment in support of claims for housekeeping services. In connection with the second possible objection, namely, reduction of the flow of government revenue, I think it is abundantly clear, both from our written submission and from our discussions here today, that we believe that the Canadian economy will benefit from greater employment of women through the raising of national productivity, general purchasing power and the spreading of the tax bases.

THE CHAIRMAN: Thank you.

COMMISSIONER MILNE: I have a question on that. This additional $1,000 exemption, in paragraph 3 would you confine that strictly to the engagement of a full-time servant? That is what is stated here. Appendix 4.3.

MISS MacGILL: Of course, our resolution at the convention stated a full-time servant, and so we will stick to that.

COMMISSIONER MILNE: Would you have any other thought to add to it at this point? I realize that was a convention resolution.

MISS VAN DINE: I think a full-time servant is reasonable. Part-time is just for the convenience of a person.

MISS MacGILL: We have nothing to add, thank you.

COMMISSIONER MILNE: You did not think there would be other conditions that might apply where this exemption might be needed, other than just a full-time

servant; that is really what I meant.

COMMISSIONER BEAUVAIS: I would like to ask a question. Does that mean that you would ask for $3,000 exemption plus $300 for each child or an extra child?

MISS CONMEE: Yes, that would be $1,000 to the husband and $1,000 to the wife. This is an exemption that would be granted to the wife and the husband would be claiming the children.

COMMISSIONER BEAUVAIS: What about in the case of a widow, for instance, with one child? What would be the exemption that you would suggest right now?

MISS CONMEE: We are suggesting $3,000. It would be the $3,000. At the moment I believe that she has the right to claim the marital exemption and also an exemption for the child.

COMMISSIONER BEAUVAIS: No, the second child. That would be probably $3,000 and no exemption for the child, except for the second child, which would be $300.

MISS MacGILL: I don't think we can actually say because our organization did not say lop off at the $300.

COMMISSIONER BEAUVAIS: We are trying to understand what you are suggesting.

MISS MacGILL: I think our organization - I think our implication is it would be an additional $1,000 and the $300 would stand.

D/EMT/ss

THE CHAIRMAN: You speak of widows. Is there anybody else who gets $3.000.00? You speak of the clergyman. I do not think he does. I think he gets $2,000.00 with the special treatment. Am I not right?

MISS CONMEE: When we are saying $3,000.00, the most usual instance of this would be a married couple. We are not necessarily talking about a widow. Then it is wrong to say the exemption is $3,000.00. You have two separate taxpayers.

THE CHAIRMAN: I see. Recommendation number 5 I think is next.

MISS CONMEE: Yes, and this recommendation takes us back to the family unit. The abuse of Section 26 (2) (a). This Subsection provides that where a married person is entitled to claim the $2,000.00 marital exemption for support of his spouse, such exemption shall be reduced by the amount by which the spouse's income exceeds $250.00. From that point onward he is required to reduce his exemption dollar for dollar for the excess of his wife's income over $250.00, and until his exemption reaches the $1,000.00 basic figure.

Other persons entitled to the $2,000.00 marital exemption by reason of support of a dependent are not required to reduce the exemption until the dependant earns in excess of $950.00. Here again we have a provision which seems to single out married couples for unjust and inequitable tax treatment in comparison with other taxpayers. Here there is no question of administrative inconvenience or abuse by the taxpayer. We are dealing solely with a matter of principle.

There appears to be no justifiable reason why a dependant, let us say an aunt or a grandparent who lives with the taxpayer, should be permitted to earn up to $950.00 without affecting his $2,000.00 marital exemption, while on the other hand another taxpayer must suffer a reduction in his exemption because the dependant who entitles him to the exemption is his spouse, and she earns between $250.00 and $1,250.00 per year. Moreover, the majority of families in which both spouses work, apparently belong to the urban, low income group. It is incomprehensible that such families should be the subject of tax hardship.

It is our recommendation that the Act be amended to permit the dependant spouse to earn up to $950.00 annually without reduction of the marital exemption of the taxpayer spouse. Once again, however, I want to emphasize that the principle of equity as between different taxpayers applies here. I think we would be satisfied if all taxpayers who are entitled to the marital exemption by reason of support of a dependant relative were accorded similar tax treatment. We realize this might involve a decrease in the $950.00 in order to effect some increase in the $250.00. However, in considering whether the revenue could afford an increase to $950.00 for the dependant spouse, the stimulation this would provide to national productivity, purchasing power and employment, and hence the widening of the tax base, would have to be weighed.

THE CHAIRMAN: Thank you.

COMMISSIONER GRANT: Before leaving the subject,

Miss Conmee, I do not think the brief has addressed itself to the question wherein income on property which has been transferred from one spouse to another continues to accrue in the hands of the transferor.

MISS CONMEE: No.

COMMISSIONER GRANT: This is another element where that nasty connotation of abuse enters. I would say that this is a case where the authorities decided that there would be too great an element, too great an opportunity for abuse if that were permitted. You have no comment to make?

MISS CONMEE: Well, Mr. Grant, I would like to say that surely the number of spouses who have an income, the number who have earned income versus investment income --- granted income from property rentals are sort of borderline and in between --- but surely the earned income aspect of this is by far the most significant aspect and not the other aspect to which you are suggesting the tax authorities have directed their attention in putting this provision in.

COMMISSIONER GRANT: You are more concerned with the earned income than the investment income?

MISS CONMEE: Well, of course, mind you, the Section is there about the transfer of property being the income of the transferor, not of the transferee, which should look after that situation.

COMMISSIONER GRANT: But you do not suggest that should be changed.

MISS CONMEE: We have not suggested this, no.

COMMISSIONER GRANT: Because it actually is income

in the hands of, let us say, the wife, but it is reported as income in the hands of the husband if he has made the transfer and as such he is taxed on it.

MISS CONMEE: We have not complained about this.

MISS MacGILL: We will take it under advisement.

MISS CONMEE: It is a wonderful device for income splitting.

COMMISSIONER MILNE: You have mentioned in some of the previous paragraphs which precede this particular resolution that you feel a revision in taxes as they affect women will tend toward a much greater employment of women in the work force, and you feel that this is to be highly regarded. We think there is merit to this. We also think there is very great merit to this particular resolution or suggestion as you have it here.

However, in respect to this $700.00 where there certainly would seem to be an injustice, if we review the statutes in relation to any other dependant, if there is a very large increase of married women entering the work force who could receive this extra $700.00 in income, do you not envisage that there would be a very large amount of tax revenue lost which would have to be compensated for in some other measure?

MISS CONMEE: Well, Mrs. Milne, we actually mention this, that the loss of revenue is one of the things to be taken into consideration. It does not affect the principle but we really do not understand why in one case $950.00 can be earned and in another case $250.00 can be earned; nor are we advocating that the $950.00 be reduced. We are just pointing out the flow of revenue has

to be maintained, but I do not think it has to be maintained at the expense of a certain class of taxpayer.

COMMISSIONER MILNE: We appreciate your views very thoroughly in this particular resolution, and we are simply wondering if there was some reasonable solution that you might offer at this point which would take care of that particular loss of revenue which is likely to mount if that were adopted.

THE CHAIRMAN: Recommendation number 6.

MISS CONMEE: Yes. This is our final recommendation on the Income Tax Act, and it relates to Section 27, Subsection 1, Paragraph C. This is the Section which permits deduction of medical expenses in excess of 3% of the taxpayer's income. Here we are asking for an amendment which would permit the deduction of all allowable medical expenses, and not just those in excess of 3% of the income.

We understand that in the United States a 3% floor is also in effect. However, we believe there are at least two important differences. This is apart from the existence there of a ceiling on the amount deducted, whereas in Canada the ceiling was removed entirely in 1961. These important differences are: -

1. The 3% floor does not apply if either spouse, or a dependant for whom the deduction is being claimed, is over 65;
2. insurance premiums for medical expenses are deductible.

In Canada there is no special treatment for medical expenses of taxpayers over 65, and medical insurance

premiums are not deductible. It used to be that, although premiums paid were not deductible, expenses paid on behalf of the taxpayer under a medical insurance plan were deductible. In 1959 Section 27 (4a) was enacted prohibiting the deduction of medical expenses where the taxpayer is entitled to reimbursement under Provincial, etc. hospital insurance plans.

In Ontario, for instance, a high proportion of all taxpayers are covered under the Ontario Hospital Services Plan. Since neither premiums paid, nor expenses reimbursed up to the standard ward level, are deductible, it is obvious that an important element of medical expenses has been excluded from the allowable list.

It is believed by some that this may have been the reason for the removal of the ceiling in Canada. It is suggested to the Commission that this also might constitute reason for removal of the floor.

The underlying logic of the deduction for medical expenses is said to be that, up to 3% of income, these are normal living expenses; that expenses beyond that are considered extraordinary and therefore represent a degree of hardship and could seriously impair ability to pay.

In our written submission we present arguments to suggest that removal of the floor would help to promote good national health which surely is a social, and indirectly an economic objective, which must be considered desirable by the Government. The only thought I might add to that is an argument some have put forward that the existence of a floor benefits those who do not look after

their health at the expense of those that do. The grounds for this argument are that the medical expenses of those who seek prompt and regular attention tend to be less erratic than the medical expenses of those who do not, and yet the existence of the floor is intended to take care of the erratic.

THE CHAIRMAN: Thank you.

COMMISSIONER WALLS: Just one question I would like to ask here: Because of the fact that such a large percentage of the population today is covered by a form of medical insurance, I note an alternate suggestion was made before this Commission that perhaps it would be of greater assistance if the sales tax were taken off drugs. What do you think of that?

MISS CONMEE: I have no idea how this would affect an average person.

COMMISSIONER WALLS: It was voiced at that time that the pensioner's or the older person's biggest expenditure was in drugs rather than in out of pocket expenses for medical expenses, and I just wondered if you gave any thought to that as an alternative.

MISS CONMEE: I do not think we have.

MISS MacGILL: Our organization has made no pronouncement on that. As a matter of fact, of course this drug investigation is a fairly recent affair and it has come up after our convention. We may discuss this at our next one.

COMMISSIONER MILNE: In this particular instance, Miss MacGill, I notice this recommendation is one that is pending in June.

MISS MacGILL: Yes.

COMMISSIONER MILNE: Would it be reasonable to suggest that you might put the question that Mr. Walls has suggested to you, and certainly it would not form part of a resolution in its present form by adopting or rescinding or laying over, but would you care to suggest it for consideration as a topic of discussion?

MISS MacGILL: Well, all I can do, Mrs. Milne, is suggest if some club has a recommendation on it that it be brought in. These matters have to come from the clubs.

COMMISSIONER MILNE: Yes, I understand.

MISS MacGILL: If some club is interested in it, we will certainly consider the matter. There might even be one that would come up, you see. We will give thought to it indeed. Thank you.

THE CHAIRMAN: Recommendation number 7, Miss MacGill.

MISS MacGILL: May I ask Miss Van Dine to present it, please.

THE CHAIRMAN: Yes.

MISS VAN DINE: May I add my appreciation to the Commission for allowing us to present our Federation views to you today.

Recommendation number 7 is an amendment to the Estate Tax Act. That Subsection 3 of Section 47 of the Estate Tax Act be amended to provide that the value of any property passing on a death, which may be paid out without the consent of the Minister, be increased from the present amount of $1,500.00 to $2,500.00 in the case of

any one transferor, deliverer or payer.

You will see this recommendation in no way amends or changes revenue or rate of taxation or the amount of tax, but it would make it more convenient to beneficiaries or to those left, or to the executor of an estate to carry on the daily living expenses. $1,500.00 we feel is a very small sum today which may not meet immediate bills and the living expenses.

Beneficiaries therefore find it very hard to get through their daily living and for settling up the debts of the estate.

The Subsection deals with the release of money on deposit, money payable as wages, salaries, commissions
2
or fees or held in trust for the deceased. This may be the only source of ready cash for the beneficiaries, for many people have only one deposit account, and the estate may not include any superannuation, pension, annuities or similar death benefits for which Subsection 2 of Section 47 provides release of the funds, so we are requesting an amendment or are suggesting an amendment to Subsection 3.

The terminal expenses of the deceased, such as hospital, doctor, nurses,funeral expenses themselves, and all other expenses in connection with the death as well as the continuing living expenses may be quite high, and if we raise this $1,500.00 to $2,500.00, notice of payment has in each case to be given to the Minister, the amounts themselves are still part of the estate, and they are still subject to estate tax.

One example would be in the case I know personally

of a retired man. He had been retired for about ten years, and he was around eighty years old. He had been retired from his own business which was a small retail store. He had no pension plan. He had no annuity. He had two bank accounts, but he also had a house which had to be kept up for six months prior to the settlement of the estate. There was no income coming in because the house could not be rented. The executor was hard put to find the ready cash to pay his bills.

There was also a heavy hospital bill. He had been in the hospital for about six months, and the probate costs and the funeral costs, and the executor did not want to leave the bills unpaid, of course, so we felt there should be a little bit more money available to a person such as that, and there are a great many people in the country who have only one bank account, not two, three or four.

We realize, of course, every bank account, every bank is allowed to release this money, $1,500.00, but there are a great many people with only one bank account.

THE CHAIRMAN: Thank you very much. We are certainly sympathetic to what you say. I suppose because of it there might be a loss of tax, but it is extremelyun-likely.

MISS VAN DINE: I would think it very unlikely. The amount from a bank account or from any of these is still part of the estate. We are merely asking that we be able to get a little bit freer flow of capital at that time, but it would not affect the amount of the estate, nor

the rate of tax, nor therefore, the tax payment.

COMMISSIONER GRANT: I would agree with you, Miss Van Dine. It seems to be a reasonable request. It is a matter of estate administration, is it not?

MISS VAN DINE: Yes.

COMMISSIONER GRANT: And where you have two succession duties or estate tax jurisdictions such as you have in Ontario, no doubt you are held up more so than in a province where there is only one, where you are dealing only with the Federal estate tax authorities.

I can speak from some experience there. We find that there is a degree of autonomy within the region, and we find they are most cooperative and that a consent is forthcoming under reasonable circumstances very soon after the list of the assets are filed if that request is made, and it does not have to await the payment of the duty in full.

It is a question of how far one should go, and as I said, I think myself your $2,500.00 ceiling is an appropriate one. If you were to raise it to $5,000.00, then I should think it could very well lull the executor into a false sense of security and he would postpone or delay the administration of the estate. If it is kept at a reasonable amount, it has the indirect advantage of making the executor or the administrator get on with the job.

MISS VAN DINE: Right.

COMMISSIONER GRANT: And of course if there is insurance, as you know from a recent amendment, as high as $11,500.00 can come from any one company.

MISS VAN DINE: But supposing the insurance had been left to a beneficiary, the executor would not want to touch that $11,000.00 to pay expenses of the deceased.

COMMISSIONER GRANT: As a matter of fact he could not without her consent.

MISS VAN DINE: No, but if it was left to a widow she might say "I have that money coming to me, pay his bills", but that only would be in a few cases, in a very small number of cases.

MISS MacGILL: I think it is $2,500.00 in Ontario, is it not?

COMMISSIONER GRANT: It could be.

MISS MacGILL: I believe it is right now.

E/PB/dpw

THE CHAIRMAN: Miss Van Dine, will you proceed to Recommendation 8?

MISS VAN DINE: Recommendation 8 also deals with the estate tax: that no estate tax be levied on values which do not actually come into being for the widow. I would like to point out while this recommendation was directed specifically toward the widow it is generally applicable to either of the surviving spouses and to other recipients as well.

The practice under the Estate Tax Act is to value pensions, annuities, etc., arbitrarily on the basis of the life expectancy of the recipient as set out in an actuarial table. The capitalized value of the pension, annuity, etc., is added to the estate, tax is levied, and payment is required within six months of death.

If the recipient fails to live out that life expectancy, or if, in the case of a widow to whom the pension, annuity, etc., is payable only until she remarries, she does remarry before she lives out the anticipated life expectancy, a hardship has been imposed in that the recipient is required to pay estate tax on the capitalized value of the pension, etc., before amounts are received with which to pay the tax, and on a total sum at least part of which the recipient did not ultimately receive.

Section 15A of the Estate Tax Act, introduced in 1960, provided relief for the estate but not for the recipient should the "terminal event", which we are calling it, occur within four years. In such an event the tax already levied will be reassessed on the basis of the actual period during which the pension, etc., was received, and the

excess tax that has been paid will then be refunded to the estate. The beneficiary or the widow may have been deprived of the sum for the duration of her widowhood, and she will receive no personal benefit whatsoever from this refund. The youthful recipient is a particular case in point. If four years elapses before the terminal event takes place, not even the estate is recompensed.

In all instances involving pensions, annuities, etc., including those rare cases falling within the provisions of Section 15(1)(a) which permit payment by instalment, some consideration might be given to continuing to include the pension, annuity, etc., in the valuation of the estate for the purpose of determining only the rate of tax, with tax being imposed as payments are actually received. Even this, however, could result in an excessive rate of tax - as in the case of the premature death of a youthful recipient.

However, viewed from the standpoint of changing attitudes, we here again invite the attention of the Commission to the need for establishing a whole new set of values in considering the "family" estate. Recognition of the services of the wife to the marriage partnership suggests that a system whereby no estate tax is paid until after the death of both spouses be considered; or that only half the estate be subject to taxation on the death of a spouse; or that, as in the United States of America, the estate of either spouse be reduced up to fifty per cent by the value of assets left to the surviving spouse. Thank you.

THE CHAIRMAN: Does this final paragraph, Miss Van Dine, come under Recommendation 8? I think it does,

because it is a numbered paragraph.

MISS VAN DINE: Yes.

THE CHAIRMAN: That is part of the recommendation?

MISS VAN DINE: Yes, part of the recommendation, although we suggest that the system might just be considered.

COMMISSIONER BEAUVAIS: Miss Van Dine, I think you have a very good point in connection with annuities and pensions, because, as a matter of fact, it seems that an estate tax would be paid on capital never to be received. Secondly, when a pension is paid, income tax will be paid on that share that is not received. What would you think of - and let us take an example: if the life expectancy of a widow is 15 years and tax computed on that basis, and one-fifteenth is paid every year; if she remarries or if she dies this tax obligation is terminated.

MISS CONMEE: Mr. Beauvais, if I might answer that, I think that is what we are trying to suggest in Item 15 on page 22.

COMMISSIONER BEAUVAIS: Yes.

MISS CONMEE: This would be used to determine the rate and the tax paid by instalments. There is still an inequity involved here. Suppose you have someone of 25 who becomes a widow and her life expectancy is 50 years and five years later she remarries and the annuity stops; obviously, even under that system the rate of tax is much too high than actual events prove out.

COMMISSIONER BEAUVAIS: She would have to pay one-fiftieth every year.

MISS CONMEE: I see.

COMMISSIONER BEAUVAIS: If she dies after one year then the balance would be cancelled.

MISS MacGILL: She would still be out of pocket.

COMMISSIONER BEAUVAIS: She wouldn't be out of pocket.

MISS MacGILL: Isn't she paying more than she would have to if it were rated on a different basis?

COMMISSIONER BEAUVAIS: No.

MISS CONMEE: The rate would be higher.

MISS MacGILL: That is what I mean.

COMMISSIONER BEAUVAIS: You would be dividing it into fifty years.

MISS CONMEE: The amount that would come out of the estate because of this long period of years - versus the very short period of years - surely would produce a higher rate?

MISS MacGILL: After four years.

COMMISSIONER BEAUVAIS: With the termination of the obligation to pay the estate tax, because the relief we have under the Act for the four years is rather limited, but I think in determining the number of years of life expectancy this would be equitable. Maybe a deduction could be considered for income tax purposes of the amount paid each year. She will otherwise pay income tax on the amount she will receive. I would like your reaction on that.

MISS MacGILL: I didn't quite follow it. Do you mind repeating it?

COMMISSIONER BEAUVAIS: Certainly. Let us take

a case where a man dies with a pension to his widow who has 15 years expectancy; then if the tax is $15,000 it would be $1,000 a year. If she dies or remarries after two years there would be no tax, or, in fact, she would pay two years only or two-fifteenths of the tax otherwise payable. In the present situation if she dies after five years then she would have paid ten years for nothing.

MISS MacGILL: In other words, the unfairness, you suggest, is the four-year thing, not the other?

COMMISSIONER BEAUVAIS: The four-year thing and the income tax.

MISS MacGILL: Of course, right here, our whole idea is that the whole business is wrong. We feel the whole family estate should be considered on an entirely different aspect than it now is. We are attacking a little corner of the law at the moment, but we don't hold, really, any brief for it as it stands. We think the thing, in essence, is wrong. Some people also have the idea that the aggregate tax money should fall on the passage of the estate to the next generation. There is that aspect of it in our suggestion as to what the survivor gets. I don't really feel, Mr. Beauvais, we have to justify the law because we don't believe in the whole thing.

COMMISSIONER BEAUVAIS: Your suggestion is that the widow would pay no tax at all?

MISS MacGILL: Yes.

COMMISSIONER BEAUVAIS: On the other hand, the pension question you are mentioning here; my suggestion is to alleviate the impact, because in some cases it might deal a very great hardship. Suppose a man dies with

no assets at all and leaves a pension of $5,000 to his wife and she has a 20-year life expectancy. She has no money to pay the tax. That is a very great hardship. My suggestion would be as she goes along she would pay that proportion every year and then she would have the money to pay it.

Maybe that is not the ideal solution, but it might improve the situation greatly.

MISS VAN DINE: I rather think, sir, that is a better solution than we have at the moment in the existing Act. The capitalization will be still part of the estate and the rate would be higher. You would be on that capitalized value, but you would be paying less. That is a good solution.

COMMISSIONER GRANT: I was going to say, what we have to keep in mind if you are dealing with the Estate Tax Act, which is a tax on the right to transfer property, not the right to receive property, as such - it is a charge on the assets of the estate, and any change or modification or amendment that might be considered would have to be considered in the light of that principle.

MISS MacGILL: That is right.

THE CHAIRMAN: I think that completes our questions, Miss MacGill. Have you anything further you would like to say to us?

MISS MacGILL: No, but we thank you very much for your courtesy and forebearance. We are very pleased to have been able to attend this morning.

THE CHAIRMAN: We thank you, indeed, for bringing forward such a well-prepared and complete

presentation. We will continue to consider your recommendations. Thank you very much.

Have we any further business, Mr. Secretary?

THE SECRETARY: We have two further items of business.

THE CHAIRMAN: We will stand down for ten minutes.

--- Short Recess

MR/dpw

THE CHAIRMAN: Mr. Secretary, you have got some more business for us?

THE SECRETARY: I have, sir. On December 20th, 1962, at the Commission office in Ottawa, a brief was received from Mr. Henry Rosenberg, Q.C. Mr. Rosenberg, unfortunately, could not meet the Commission here and he has asked that this be entered into the record, which I do, as Exhibit No. 52.

--- EXHIBIT NO. 52: Submission of Mr. Henry Rosenberg, Q.C.

THE CHAIRMAN: Thank you.

THE SECRETARY: I have also, Mr. Chairman, Commissioners, three more exhibits which I would like to enter into the record. The first, which I now enter as Exhibit No. 53, is a copy of a letter addressed to the Honourable Walter L. Gordon, P.C., M.P., from Mr. J.W. Abbott, President of The Canadian Institute of Chartered Accountants. This letter is April 23rd, and the subject matter concerns the report of a Committee which was instituted to study corporation surpluses and designation of surpluses under the Income Tax Act.

--- EXHIBIT NO. 53: Letter addressed to The Honourable Walter L. Gordon, P.C., M.P., dated April 23rd, 1963.

THE SECRETARY: I also enter as Exhibit No. 54 the reply which was sent by the Honourable Walter Gordon to Mr. J.W. Abbott dated April 30th, 1963. In this reply it is indicated that the report to the Minister of Finance

by the Special Committee on Corporate Taxation dated 1961 would be entered into the record of this Commission which I do at this morning's session.This is Exhibit No. 55.

---EXHIBIT NO. 54: Letter in reply by the Honourable Walter L. Gordon,P.C.,M.P., dated April 30th, 1963.

---EXHIBIT NO. 55: Report of the Special Committee on Corporate Taxation, dated 1961.

THE SECRETARY: This report of the Special Committee on Corporate Taxation was received pursuant to the Committee's instructions in accordance with Order in Council P.C. 1960-1356 of October, 1960, dealing with the subject matter I mentioned a few seconds ago.

That is all I have, Mr. Chairman.

THE CHAIRMAN: Thank you, Mr. Secretary. I would like the record to note that I am grateful to the Honourable Minister for making this available to us as I believe this report will prove most useful to all students of income taxation. Do you have anything else for us?

THE SECRETARY: That is all for this morning's session, Mr. Chairman. Tomorrow we are convening at 9:30 to hear a brief from the United Electrical, Radio & Machine Workers of America. Mr. C.S. Jackson, President, will be here at that time.

THE CHAIRMAN: We stand over until 9:30 tomorrow morning.

---Adjournment

COPY

THE CANADIAN INSTITUTE OF CHARTERED ACCOUNTANTS

Chartered Accountants Building,
69 Bloor Street East,
Toronto 5, Ontario.

Office of the President

April 23, 1963.

The Honourable Walter L. Gordon, P.C., M.P.,
Minister of Finance,
Department of Finance,
Ottawa, Ontario.

Dear Mr. Gordon:

As you know, the Institute has appointed a Committee to prepare a submission to the Royal Commission on Taxation.

Naturally we want our studies to be based on as complete, accurate, and up-to-date material as possible and, to this end, we would find it most useful if our Committee could be granted access to the special study of the problem of corporation surpluses and the designation surpluses under the Income Tax Act.

We had written to your predecessor requesting a copy of the study but he felt unable to comply with our request. We hope that you will be able to see your way clear to assisting our study by giving us permission to review the special study. We would, of course, if you requested, keep the contents, or even the fact we have such a study, entirely confidential to the members of the Institute's Committee.

Yours sincerely,

Sgd. J.W. Abbott,
President.

COPY

Minister of Finance

Ottawa, April 30, 1963.

Mr. J.W. Abbott,
President,
The Canadian Institute of Chartered Accountants,
69 Bloor Street East,
Toronto 5, Ontario.

Dear Mr. Abbott:

In your letter of April 23 you referred to a study of the problem of corporation surpluses and the designation of surpluses under the Income Tax Act. The former Government retained a group of four private persons to study these problems amongst others and a report was submitted on March 21, 1961. This report was kept secret and apparently nothing was done about the problems.

You wish to obtain a copy to assist in preparing the submission of your Institute to the Royal Commission on Taxation. This is a reasonable request and I am pleased to comply with it. I would not feel justified, however, in making this report available to one organization and not to others. I have decided to submit it to the Royal Commission on Taxation, to be placed on their record so that it can be obtained by anyone who is interested.

I would suggest, therefore, that your request should now be addressed to the Royal Commission.

Perhaps I should add for the record that the release of the report cannot accurately be regarded as conveying any clues or implications as to the fiscal policies of the government, other than that we are in favour of encouraging widespread consideration of these important matters. Yours sincerely, Sgd. Walter Gordon.

EXHIBIT NO. 55

R E P O R T

to the

M I N I S T E R O F F I N A N C E

by

T H E S P E C I A L C O M M I T T E E

on

C O R P O R A T E T A X A T I O N

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CONTENTS

To: The Honourable Donald M. Fleming, P.C., Q.C.
Minister of Finance
Ottawa, Ontario.

We, the Members of the Special Committee on Corporate Taxation appointed pursuant to Order-in-Council P.C. 1960-1356, dated October 1, 1960, to advise on certain problems connected with corporate taxation which were set forth in detail in the "terms of reference" as follows: -

"1. to consider the various provisions of the Income Tax Act relating to the taxation, as personal income or otherwise, of amounts that are distributed or are available for distribution out of the earnings of corporations;

2. to determine the extent to which these provisions have given rise to anomalies and inequities in taxation, have made unduly complex the arrangements governing business organization, have imposed barriers to the creation of new businesses and the reorganization of existing businesses and have encouraged the adoption of artificial devices and arrangements to avoid taxation;

3. to study the comparable provisions of the tax laws of other countries;

4. to recommend changes which may achieve greater simplicity and overcome any anomalies, inequities or deficiencies it finds in the present law without substantial loss of revenue;

5. to recommend appropriate changes in the taxation of personal corporations, in the light of recommendations made under the previous paragraph;

and

6. in connection with the above subjects, to recommend any methods by which the income tax laws in questions might be reformulated, in the national interest, so as to give greater encouragement to the Canadian ownership of Canadian industry."

SUBMIT TO YOU THE FOLLOWING REPORT:

SUMMARY OF FINDINGS AND RECOMMENDATIONS

We have reviewed the present provisions of the Income Tax Act relating to corporate distributions in Canada and their historical background. We have considered the general effect of such provisions upon the Revenue and upon corporate enterprise and shareholders. We have studied the comparable provisions of the tax laws of other countries. These matters are dealt with more fully hereunder.

As a result of these investigations, we have found that: -

1. The amount of tax actually collected from Canadian resident individuals in respect of dividends received from Canadian corporations, based upon the latest statistics available (1958), is estimated to be less than $50,000,000 per annum;
2. The amount of tax on accumulated corporate earnings for the 1959 filing year actually collected in respect of the special tax of 15% under Section 105 has been tabulated by the Department of National Revenue as $5,643,766;
3. The present numerous complex provisions of the Income Tax Act respecting corporate distributions, in spite of many amendments, have not effectively prevented in many cases avoidance by individuals of the tax payable on theultimate distribution of accumulated corporate earnings;

4. There are in fact many anomalies, inequities and deficiencies in the taxation of corporate and individual taxpayers arising out of these provisions;

5. These provisions also tend to encourage excessive accumulation of corporate earnings;

6. The taxation at graduated rates upon ultimate distribution of these accumulations continues to be a serious problem for many shareholders of closely-held corporations and their estates who are often forced to liquidate their holdings or resort to artificial devices to avoid the impact of this ultimate taxation;

7. On the other hand, similar problems are not created when investments by Canadian individuals are made in listed shares of public corporations, with the result that individual investors are not sufficiently encouraged to start new corporate ventures;

8. Freedom and flexibility of corporate organization are unduly restrained by the many provisions already referred to which affect indiscriminately all corporations, both closely-held and widely-held, without due regard to the requirements of efficient business organization;

9. The special tax concessions made from time to time in the past to reduce the effect of the graduated rates in an effort to

solve the above problems have not prevented the continuing accumulation of corporate earnings and have not actually produced substantial revenues.

Therefore, in the opinion of the Committee, a new approach to the problem of the taxation of corporate distributions is necessary and desirable from the point of view of the Government and the Taxpayer.

The Recommendations of the Committee may be summarized as follows:

1. The basic recommendation is to impose, in lieu of the present method of taxation of dividends, a flat Shareholders Tax of 15% to be withheld by the corporation on any distribution or deemed distribution of accumulated corporate earnings to all shareholders by Canadian taxable corporations (hereinafter called "Canadian Dividends"). In the case of corporate shareholders, the Shareholders Tax is payable only on the first distribution and thereafter no further tax is to be paid by Canadian resident corporate shareholders in respect thereto. The Shareholders Tax withheld is deemed to be on account of the 15% non-resident tax on dividends under Part III of the Income Tax Act.

2. In order to recognize the present favourable tax treatment accorded to Canadian resident individual shareholders with taxable incomes

up to $10,000, a refund of the 15% Shareholders Tax would be granted to such individuals.

3. The Designated Surplus provisions in Section 28 and the special taxes in Sections 47 (4), 105, 105A, 105B and 105C would be repealed and Section 81, dealing with distributions by way of "deemed dividends", would be amended to include the provisions of present Section 8 and to cover devices for "disappearance" of surpluses that may remain.

4. In the event that it is considered desirable as a matter of policy that the Shareholders Tax be increased on a limited progressive basis, the upward limits of such increased taxes should range from 15% to 40%.

5. Transitional provisions will be necessary to preserve for a reasonable time all present rights respecting the distribution of existing surpluses tax-free to corporate shareholders. The right to elect to pay the 15% tax under Section 105 in order to convert undistributed income to a tax-paid basis will also be preserved for a limited period.

6. As an incentive to certain Canadian corporations to distribute their earnings to Canadian resident shareholders, a special tax abatement shall be allowed to such corporations of a percentage of Canadian Dividends

paid to such shareholders out of its earnings after December 31, 1960. The rate of abatement shall be reviewed annually, with a suggested rate of 10% for 1961.

7. The provisions respecting personal corporations would be repealed.

REVIEW OF PROVISIONS RELATING TO CORPORATE DISTRIBUTIONS

"Reference 1 - to consider the various provisions of the Income Tax Act relating to the taxation,as personal income or otherwise, of amounts that are distributed or are available for distribution out of the earnings of corporations."

HISTORICAL BACKGROUND

The Ives Commission Report

It is convenient to refer to the last official public enquiry which touches upon the matters referred to this Committee under its terms of reference, namely, The Royal Commission on Taxation of Annuities and Family Corporations, otherwise known as The Ives Commission. This Commission reported on March 29, 1945. While the concern of The Ives Commission in this respect was restricted to the problem of the tax liability on accumulated earned surpluses of so-called "private corporations or closely-held corporations", the many representations and problems considered by them also concerned this Committee. Their final Summary of Recommendations respecting this part of their enquiry was as follows:

"1. That the companies to which these recommendations apply be those which, in general, come within the definition of a private company as provided in the Dominion Companies Act.

2. That capitalization or distribution of surpluses earned prior to the end of the 1939 fiscal year be permitted on payment of a special tax by the company, which will approximate the tax that would have been paid by the shareholders had the surplus been distributed year by year as earned.

3. That to accomplish this objective a graduated rate of tax be applied to the amount of the distribution or capitalization made or accruing to each shareholder - the minimum rate being 15% on amounts up to $25,000, and the maximum being 33% on amounts in excess of $400,000 to any one shareholder.

4. That permission to capitalize or distribute such surpluses be available for a period of two years from the date that the plan is made law.

5. That the refundable portion of excess profits tax be made available to apply in part payment of the special tax.

6. That on the re-organization of a private company which involves a change in beneficial ownership, or on the winding-up or discontinuance of business of any such company, the

undistributed income which is deemed to be the payment of a dividend under the present law be reduced by an amount equal to 20% of the income after tax earned in the 1940 and subsequent taxation years."

As a result of the recommendations, Part XVIII containing Sections 94 to 97 was added to the Income War Tax Act in 1945 to provide the mechanics by which the recommendations of The Ives Commission were substantially adopted with respect to earned surpluses accumulated up to the end of the 1939 fiscal period. No attempt was made at that time to deal by legislation with earned surpluses accumulated after that date and specifically the 20% retention proposal in Recommendation No. 6 was not accepted.

Election to pay 15% Tax

In 1950, the Government of the day decided to introduce further legislation to deal with accumulated as well as future surpluses. Under this legislation earned surpluses accumulated to the end of the 1949 taxation year were to be dealt with in much the same way as earned surpluses up to the end of the 1939 fiscal period under Part XVIII of the Income War Tax Act, except that the tax payable by the closely-held corporation was a flat 15% and capitalization of the resulting tax-paid undistributed income was mandatory to achieve tax freedom for the receiving shareholder. As for future surpluses, there was introduced what was thought to be a continuing solution by permitting the capitalization tax-free to the shareholders (at a 15% tax cost to the company) of an amount of undistributed income equal to dividends paid

after 1949. The then Minister of Finance in his Budget Speech of March 28, 1950, said by way of explanation of this measure:

> "If the proposed legislation did no more than take care of past surpluses a new problem with respect to the future would immediately start developing. I think it desirable, therefore, that the present legislation should provide a comprehensive solution to the problem as a whole rather than merely deal in ad hoc fashion with the past."

Introduction of Designated Surplus concept

On May 10, 1950, the Designated Surplus concept was introduced. The effect was to tax at full corporate rates the distribution of accumulated surpluses of corporations whose control was acquired by another corporation after that date. To the extent that a controlled closely-held corporation had tax-paid undistributed income on hand such a distribution remained tax-free.

In 1951, the right to elect to pay the 15% tax was extended to other than closely-held corporations, but, except in respect of surpluses at the end of 1949 taxation year, was withdrawn from a corporation which was a "subsidiary controlled corporation." The effect of this amendment was that, in the case of the acquisition of control after 1949, no portion of Designated Surplus representing earnings accumulated since the 1949 taxation year could be distributed by way of dividends or otherwise to a controlling corporation at a tax cost of only 15%.

Additional Special Taxes

While the Designated Surplus provisions in the main froze pre-control surpluses, other erosions of undistributed income continued so that various special tax provisions were introduced into the Act as follows:

1. A 20% or 30% tax on premiums paid by a company on any redemption or acquisition of its preferred shares, now under Section 105A(1953);
2. A 15% or 20% tax on distributions of Designated Surplus to exempt taxpayers,non-residents and securities dealers, Section 105B (1955); and
3. A 20% tax in respect of certain statutory amalgamations resulting in the effective disappearance or reduction of undistributed income, Section 105C (1959 and 1960).

Dividend Tax Credit

In 1949, provision was made for an allowance to Canadian resident individual shareholders of a credit against taxes otherwise payable of 10% of dividends received from Canadian taxable corporations. The credit was limited to the amount of tax payable in respect of such dividends. In 1953, the credit was increased to 20%, subject to the same limitation. However, in 1957, this limitation was removed.

SUMMARY OF PRESENT LEGISLATION

We set out hereunder the principal provisions in the Income Tax Act of Canada affecting the distribution and

retention of profits earned by corporations in Canada and a brief outline of their purpose. The tax payable by corporations is 21% on taxable income not exceeding $35,000 and 50% on any amount in excess thereof.

Provisions relating to cash distributions

S.	6(1)(a)	- Amounts received as dividends included in income
S.	6(1)(g)	- Amounts received as premiums on redemption of shares before April 30, 1953, included in income
S.	11(2)	- Shareholder's allowance for depletion
S.	28(1)	- Inter-corporate dividends tax-free in certain cases
S.	28(2)	- Inter-corporate dividends taxable in certain cases
S.	38	- 20% dividend tax credit for Canadian resident individuals
S.	47(4)(5)	- 25% withholding tax on dividends received by brokers in certain circumstances
S.	63	- Dividends received by trusts and estates

Provisions relating to "deemed" distributions and other benefits to shareholders

S.	8(1)	- Benefits to shareholders included in income
S.	8(2)	- Loans to shareholders taxed as deemed dividends without tax credit
S.	8(3)	- Interest on income debentures deemed a dividend
S.	11(1)(da)	- Repayment of loan by shareholder under S.8(2) deductible from income
S.	24	- Securities or rights in satisfaction of dividends

S.	67-68	- Deemed distribution of income to shareholders of personal corporations
S.	81-82	- "Distributions" resulting from reorganizations, winding-up, capitalizations, etc., deemed to be dividends

Special provisions and taxes on benefits and distributions to shareholders

S.	31(2)	- Distributions to non-resident shareholder employees in certain cases taxed as ordinary income
S.	32(3)	- 4% surtax on investment income from non-Canadian sources
S.	105	- 15% tax on undistributed income subject to certain conditions
S.	105A	- 20% or 30% tax on premiums on redemption or acquisition of preferred stock
S.	105B	- 15% or 20% tax in respect of dividends paid out of Designated Surplus to specified persons
S.	105C	- 20% tax in respect of certain undistributed income following statutory amalgamations

EFFECTS OF PRESENT LEGISLATION

"Reference 2 - to determine the extent to which these provisions have given rise to anomalies and inequities in taxation, have made unduly complex the arrangements governing business organization, have imposed barriers to the creation of new businesses and the reorganization of existing businesses and have encouraged the adoption of artificial

devices and arrangements to avoid taxation."

The cumulative effect of the annual revisions of income tax legislation, particularly those which were intended to deal with special situations, has been to complicate the tax structure and to introduce a variety of rates.

The following partial tabulation of rates (in which are included Old Age Security Tax unless otherwise noted) which are involved in the earning of business income in corporate form and the distribution of such income will serve to illustrate this point.

<u>Rates relating to cash distributions</u>

(i)	Dividends received by resident individuals from foreign or non-taxable corporations	14%-84% *
(ii)	Dividends received by resident individuals from Canadian resident taxable corporations	14%-80%*less 20% of dividend
(iii)	Dividends received by Canadian resident taxable corporations from foreign or non-taxable corporations	21%&50% **
(iv)	Dividends received by Canadian resident taxable corporations from Canadian resident taxable corporations	exempt
(v)	Dividends received by Canadian resident taxable corporations out of designated surplus of a controlled Canadian resident taxable corporation	21% & 50%**
(vi)	Dividends paid to non-resident individuals and corporations	15%
(vii)	Dividends paid to non-resident individuals and corporations under a tax treaty	exempt -15%

* To the 80% and 84% rat e s should be added $90 - Old Age Security Tax. 4% investment surtax included where applicable.

** Included in taxable income: at 21% up to $35,000 and 50% on excess

Rates relating to other distributions

(viii)	Various corporate actions which constitute payment of a deemed dividend	as above (i) - (vii)
(ix)	A stock dividend or other capitalization (but not a cash dividend) paid out of capital surplus after having paid appropriate taxes on any undistributed income on hand	exempt
(x)	Benefits under Section 8(1) to Canadian resident shareholders of Canadian resident corporations	14%-80% *
(xi)	Such benefits if to non-resident shareholders	15%

* To the 80% rate should be added $90 - Old Age Security Tax

Special Tax rates payable by payer corporations

(xii)	"Distribution of 1949 surpluses (105(1))	15%
(xiii)	"Distribution of post 1949 surpluses (105(2)) equivalent to dividends paid	15%
(xiv)	"Distribution" by way of premium paid on redemption or acquisition by a corporation of its preferred stock (105A)	20% or 30%
(xv)	"Distribution"out of Designated Surplus to a non-resident corporation (105B)	15%

(xvi)	And if to an exempt person (105B)	15%
(xvii)	And if to a trader or dealer in securities (105B)	20%
(xviii)	"Distribution" resulting from statutory amalgamation (105C)	20%

The foregoing tabulation gives effect to the Budget resolutions introduced by the Minister of Finance on December 20, 1960.

The above sets out the principal rates although there are other special taxpayers for which different rates or treatment are applicable such as trusts and estates, foreign business corporations, non-resident-owned investment corporations, investment companies, life insurance companies, public utilities, co-operatives and non-taxable entities including charities, pension trusts, personal corporations, etc. It is evident that the hopeful words of the Minister of Finance in his Budget Speech of March 28, 1950, quoted above, have not been fulfilled. The procession of "ad hoc" solutions has in the last decade continued unabated.

Election to pay 15% Tax

In 1950, when the right of election to pay a special 15% tax on undistributed income was introduced, it was thought thata settlement of tax liability on 1949 undistributed income on this basis would be accomplished. Thereafter it was expected that the corporation would adopt a regular dividend policy so that it could qualify for continuing elections to pay the 15% tax on amounts equal to the dividends paid. In fact many corporations

found that the 15% tax on their 1949 undistributed income was too great a burden unless there was an immediate and substantial benefit to be gained for their shareholders. Accordingly, such corporations could not elect under the continuing phase of the plan even if their subsequent dividend policy would have qualified them to do so. Further, those corporations which had elected and paid the tax on their 1949 undistributed income or were incorporated after 1949, did not necessarily elect or could elect to pay the special tax of 15% because of one or more of the following reasons:

1. The tax cost to the shareholders at graduated rates of dividend payments in order to qualify for the election was a deterrent in many cases;
2. The 20% Dividend Tax Credit had removed to a large degree the incentive to pay the 15% tax which would otherwise have been present; and
3. There were other ways of distributing undistributed income without tax by resorting to the many devices developed throughout the decade in spite of continuous efforts by the administration to defeat these attempts to avoid taxation.

Accordingly, this concession has not solved the problem of continuing accumulations of corporate earnings.

<u>Designated Surplus</u>

The effect of the Designated Surplus provisions, described above, was to tax at full corporate rates all

dividends paid out of pre-control period accumulated earnings. These provisions were obviously intended to prevent the application of the proceeds of tax-free inter-corporate dividends in payment for the shares of the controlled corporation. It was also intended to prevent the vendor of the shares from obtaining the benefits of a distribution of earnings without tax. Therefore, unless these provisions could be avoided when one corporation acquired control of another after May 10, 1950, the pre-control surplus was effectively frozen.

The compelling urge to avoid the Designated Surplus problem is illustrated by some of the more obvious devices employed without regard to the business realities other than tax considerations:

1. The cutting off of normal inter-corporate cash flow to avoid tax.
2. The 50-50 split between companies acquiring a subsidiary company to avoid control and consequent designation of surplus under Section 28(2) and the tax under Section 105B.
3. The creation of non-voting stock to be acquired by a corporation in order to avoid the acquisition of control with the same results as in No. 2 above.
4. The use of holding companies solely as a buffer to prevent future designation of surplus.
5. The statutory amalgamation to free designated surplus in the hands of the resulting

corporation as permitted under Section 105C without tax and to avoid designation of surplus under Section 28 (2).

In actual practice there are many variations and combinations of these devices.

Even when a Designated Surplus has arisen, the controlling corporation can avoid the tax effects by many unnatural arrangements of the business activity and the capital structure of the controlled corporation such as:

1. Transfer of business by way of sale or rental of assets to the controlling corporation, leaving Designated Surplus recorded on the inactive controlled corporation's books;
2. Purchase of assets from controlling corporation, thereby transferring cash to the controlling corporation to pay off acquisition or other debt; and
3. Erosion of Designated Surplus by excessive management and other charges by the controlling corporation and by other artificial methods.

A direct result of these complex provisions designed to prevent the escape or erosion of undistributed income without tax is to inhibit normal economic organization and re-organization of Canadian business, both large and small, both private and public.

Additional Special Taxes

As indicated above, Sections 105A, 105B and 105C were designed to collect various special taxes at rates of

15%, 20% or 30%, as the case may be, upon the actual or deemed distribution or realization of corporate earnings by means of the various methods described in these sections.

These special taxes are in lieu of the graduated rates otherwise payable by individuals and by way of additional taxes payable by corporations in respect of such distributions or deemed distributions.

With respect to Section 105A, a premium paid upon the redemption or acquisition of preferred shares was considered to be in effect a distribution of corporate earnings. The tax imposed is a flat rate of 20% of premiums not in excess of 10% and 30% of premiums over 10%. This tax is payable regardless of the amount of undistributed income on hand of the corporation, if any. Therefore, the underlying principle justifying the imposition of tax was not carried forward completely into the legislation in that capital repayments by way of premiums are also taxed. At the same time, where undistributed income existed, it can always be distributed at a maximum cost of 20% because any amount of undistributed income can be distributed by the issue and immediate redemption of a sufficient amount of preferred shares carrying a 10% premium equal to the amount of the proposed distribution.

Section 105B taxes are applicable only when Designated Surplus is distributed to entities which would not be effectively subject to tax. The provisions of Section 105B apply where a resident corporation is "controlled" by a non-resident corporation or a person

exempt from tax or a trader or dealer in securities. Because such control can result through ownership of less than 100% of the shares, the special tax under this section will be payable by the payer corporation even where payments out of Designated Surplus are made to resident taxable corporations or individuals. The result is that the undistributed income of the corporation is subject to the special 20% or 15% tax under Section 105B, and the balance actually distributed to the minority Canadian resident individual shareholders is subject to further tax at graduated rates.

The special tax rate on Designated Surplus distributions where the Canadian resident corporation is controlled by a securities dealer is 20%, as opposed to 15% where the corporation is controlled by a non-resident corporation or an exempt entity, except a personal corporation. While the underlying intention in Section 105B is to collect a flat tax in the special circumstances described therein, in fact, the devices referred to above under the heading "Designated Surplus" are equally available to taxpayers who wish to avoid these special taxes.

Section 105C recognizes the principle that no tax penalties should be levied on the distribution of earnings from one corporation to another unless such earnings effectively "disappear" for tax purposes, in which case a flat tax of 20% is levied on the amount of "disappearance". The measure of the "disappearance" is the reduction of the undistributed income to less than the "net asset value" (excepting goodwill) of the recipient

corporation. However, the actual application of the principle in Section 105C is limited to a few cases where a statutory amalgamation is possible under Provincial Company law. All other mergers and reorganizations, however accomplished, with the same economic effects are denied the application of this principle.

Dividend Tax Credit

Before 1957, the dividend tax credit of 10%, and subsequently 20%, was limited to the tax actually payable by the Canadian resident individual on the dividend he received from Canadian taxable corporations. However, pursuant to the 1957 amendments, this limitation was removed so that the 20% credit applied regardless of the tax payable in respect of the dividend. The reason given for the change was to remove the need for taxpayers with small incomes calculating their tax both with and without their dividends included. The effect was to reduce the tax otherwise payable on income from other sources in the case of many taxpayers. For example, under the present rates, an individual in the first bracket of taxable income of $1,000 subject to 11% tax (excluding Old Age Security Tax) receives an additional tax credit amounting to 9% of these dividands. This additional abatement is available only to an individual who has income made up of dividends and other income. Consequently, an individual in this bracket with dividend income only is limited to a credit of 11% instead of 20%.

The effect of the 9% tax credit is illustrated as follows:

	TAX PAYABLE
$1,000 Taxable Income	$110.00
Appropriated as follows:	
$900 Taxable Income	$ 99.00
100 Dividends from Canadian taxable companies	11.00
$1,000	$110.00
Less: Tax Credit of 20% of $100	20.00
	$ 90.00

The difference between the tax payable of $11.00 on $100 of dividends, and the tax credit of $20.00 on same is $9.00, which has been applied to reduce the tax payable on the other income.

Benefits to shareholders

Section 8, Subsections (1) and (2) of the Act, tax certain benefits to shareholders either as ordinary income or as a deemed dividend. These provisions apply regardless of the amount of undistributed income, if any, in the hands of the corporation.

In the case of benefits under Subsection (1), which are taxed as ordinary income, no dividend tax credit is permitted to the individual shareholders, and in the case of corporate shareholders, such benefits are taxed at full corporate rates.

Subsection (2) applies to loans to shareholders which are treated as deemed dividends except for the

instances referred to in the subsection. However, no dividend tax credit is permitted to individual shareholders, but upon the repayment of the loan, a deduction is permitted from income equal to the amount of the repayment. Moreover, this deduction is limited to the taxpayer's other income in that year only. In the case of corporate taxpayers, the deemed dividend will be taxed to the recipient corporation if it is paid out of Designated Surplus. If it is not paid out of Designated Surplus, the deemed dividend is received by the recipient corporation tax-free, but the amount is added to its undistributed income. The deemed dividend is not deductible from the undistributed income of the payer corporation. Subsequent repayment of the loan by the corporation does not reduce its undistributed income.

The foregoing examples of the many anomalies and inequities arise out of the attempt to collect a tax on the distribution of corporate earnings. No consistent principle is apparent in these complex provisions other than this attempt to collect such tax or to apply prohibitive tax rates to counteract the avoidance of the graduated rates of tax.

Amount of tax collected

We have estimated that the amount of tax actually collected annually from Canadian resident individuals in respect of dividends received from Canadian corporations based upon the present rate structure and present pattern of distribution of corporate earnings is less than $50,000,000. Our estimate is based on the information

available for the most recent year, namely, the taxation year 1958, which is published in "1960 Taxation Statistics" prepared by the Department of National Revenue, together with additional information obtained from other Government sources.

The total amount of tax actually collected in respect of the special tax of 15% under Section 105 was $5,643,766 in the filing year 1959 as tabulated by the Department of National Revenue. There are no statistics available tabulating the taxes collected annually under Sections 105A, 105B and 105C. The special nature of these taxes is such that their application is erratic and unpredictable. We would, however, estimate that Sections 105A, 105B and 105C are not likely to raise any significant amount of tax because of this limited application.

We have not been able to ascertain the amount of tax collected on dividends paid out of Designated Surplus defined in Section 28(2) but in view of the prohibitive effective rate it is unlikely that any significant amount of tax has been collected.

TAX LAWS OF OTHER COUNTRIES

"Reference 3 - to study the comparable provisions of the tax laws of other countries."

We have studied in a general way the tax laws of some of the countries of comparable economic development to that of Canada with particular emphasis on those matters within the scope of the work of this Committee.

In our survey of these laws we have found that although the problem of the taxation of corporate earnings

exists in all these countries, the approach in each differs widely. To a large extent the differences are inherent in the tax system which has evolved in each country. The approach has been further conditioned by the objectives sought to be achieved by fiscal means from time to time by each of them.

The tax systems of the countries studied recognize certain general principles:

1. All impose a tax on corporations as separate taxable entities;
2. All impose a tax on the distribution of corporate earnings to individual shareholders;
3. Most acknowledge the special nature of corporate distributions of profits already subject to tax, and various tax concessions are granted to individual shareholders; and
4. Many grant incentives to encourage the distribution of corporate earnings, or impose penalties to discourage their undue accumulation.

We illustrate the variety of the different approaches to the taxation of corporate distributions hereunder:

1. In such countries as the United Kingdom, Australia, South Africa and Italy, a portion of the tax initially paid by the corporation in respect of its profits is deemed to have been paid for the shareholder who applies the same against his personal tax, if any.

2. In France, there is found a combination of a withholding tax on dividends, plus a further tax, if applicable, at graduated rates.

3. In some countries, dividends received by individual shareholders are to a greater or lesser extent excluded from the computation of gross income. The deduction may be absolute as in the case of the $50 exemption in the United States, or a percentage of dividends such as the 15% allowed in Finland.

4. The United States grants an allowance against taxes of 4% of dividends received by individuals over the $50 exemption previously mentioned.

5. In the United States and in the United Kingdom, there are special penalties for undue accumulation of surpluses by closely-held corporations.

6. In some countries there are tax incentives for specific purposes. In West Germany, the basic corporate tax rate on retained profits is 51%, and on distributed profits it is 15%. Similar incentives, but with more limited scope are found in Sweden and France. At the same time other countries, such as Belgium, tax distributed profits at a higher rate than retained profits.

Since systems of taxation grow out of the history and economic and cultural development of each country, each is peculiar to its own environment and peoples. While the broad general principles may be universal, the Canadian solution must be found in Canadian experience.

SUGGESTIONS FROM VARIOUS SOURCES RELATING TO DISTRIBUTIONS BY CANADIAN CORPORATIONS

Many suggestions relating to the problems of distributions by Canadian corporations have been made recently by interested parties. We mention the principal suggestions hereunder and indicate briefly why we were of the view that these suggestions did not provide a satisfactory solution to the problems referred to us under our terms of reference.

Exempt dividends received by Canadian resident persons from taxpaying Canadian resident corporations with compensation to the Revenue by an increase of 1% or 2% in the general corporate tax rate

This suggestion would exempt shareholders completely from tax on the dividend form of income, a principle which the Committee could not support. Moreover, a general increase in corporate tax in lieu of any tax on dividends has the undesirable effect of taxing earnings indiscriminately whether distributed or retained, and increasing the gap in the rates of taxation between the partnership and corporate forms of carrying on business. We are also of the view that an increase in the general corporate rate of tax for the purpose of freeing dividends from tax is not desirable at this time. There is a substantial body of opinion, which we share, that believes that an unduly high rate of tax on corporate profits has an adverse effect on business expansion at home or on the position of Canadian business in export markets.

Increase the dividend tax credit to approximate the higher (50%) corporate tax rate

The effect of this suggestion is the virtual abolition of tax on dividends without compensation to the Revenue. Furthermore, if the principle underlying the dividend tax credit is to reimburse the shareholder for corporate tax paid on earnings distributed, the credit should be related to the actual federal tax borne by the corporation. A flat rate of dividend tax credit of general application does not meet this test. The effective rate of corporation tax varies as between large and small corporations and as between corporations which do business in certain provinces levying their own corporate income taxes and in foreign countries and those who do not.

Free Designated Surplus after a period of years

This suggestion does not solve the particular problem created by Designated Surplus because it merely delays the removal of an undesirable feature of the present legislation. Reference has already been made to this matter in this Report.

Impose a tax on the vendor of shares equal to his portion of Undistributed Income in certain circumstances

The essence of this suggestion appears to be the taxation of undistributed income of a closely-held corporation on any sale of its shares by a controlling shareholder to the extent of the undistributed income attributable to such shares. This carries the concept of Designated Surplus one step further than at present in that tax will be imposed even if there is no actual distribution. Under

the Designated Surplus provisions no tax is imposed until there is a distribution out of such surplus. This suggestion would impose a tax whether or not there is an actual distribution. Accordingly, there is a penalty on bona fide sales of shares in which the use of the corporation's own accumulated earnings to provide the purchase price is not a factor.

Furthermore, there would be unwarranted discriminatory treatment as between investors in closely-held and in widely-held corporations as well as between controlling and minority shareholders.

For the above reasons, we cannot support this suggestion.

Tax the payer corporation at the rate of 15% on Designated Surplus which effectively disappears for tax purposes

The principle of imposing a tax on the "disappearance" of surplus has already been accepted in Section 105C. This suggestion is an extension of this principle to Designated Surplus and may solve that problem provided that "disappearance" can be effectively defined. However, while this suggestion permits distribution out of Designated Surplus in bona fide cases, the use of artificial devices to avoid designation is not prevented.

Extend the principle of Section 105

In view of the limited application of the election privilege under Section 105(1) and (2) to pay the special 15% tax thereunder and the problems already described above under the heading "Election to Pay 15% Tax," it has been suggested that any corporation, whether a subsidiary or not, be permitted at any time to elect to pay the special

tax on any amount of its undistributed income including designated surplus. The effect of thus creating tax-paid undistributed income by the payment of the 15% tax would be to permit the capitalization of such tax-paid undistributed income and the subsequent distribution of all or part thereof without tax.

As the present 20% dividend tax credit provision exempts a large proportion of individual shareholders of widely-held corporations, this suggestion would mainly benefit closely-held corporations and their shareholders.

As the purpose of Section 105 was to encourage final settlement of tax liability in respect of accumulating corporate earnings, particularly of closely-held corporations, the Committee is of the opinion that the removal of the impediments mentioned previously in this Report would restore the usefulness of the legislation to that originally contemplated.

For these reasons, in the opinion of the Committee, this suggestion merits further consideration in the absence of the more far-reaching solution recommended by this Committee hereunder.

RECOMMENDATIONS

"Reference 4 - to recommend changes which may achieve greater simplicity and overcome any anomalies, inequities or deficiencies it finds in the present law without substantial loss of revenue.

"Reference 5 - to recommend appropriate changes in the taxation of personal corporations, in the light of recommendations made

under the previous paragraph; and

"Reference 6 - in connection with the above subjects, to recommend any methods by which the income tax laws in question might be reformulated, in the national interest, so as to give greater encouragement to the Canadian ownership of Canadian industry."

The Committee is of the opinion that a new approach to the taxation of the distribution of corporate earnings is necessary and desirable. As has been previously shown in this Report, the Revenue has not received substantial amounts from the present graduated rate structure applicable to dividends and the special taxes under Sections 105, 105A, 105B and 105C. The provisions made from time to time to ensure that the Revenue received such tax in due course have actually produced revenue of slightly in excess of $50,000,000 per annum. We feel that the ultimate cost to the Canadian tax-paying public of the administrative efforts to enforce these provisions have been out of proportion to the amount of taxes actually collected. We recognize that the enforcement of existing tax laws cannot be relaxed on the grounds of cost. However, it is obvious that in an attempt to control avoidance, the law should not be permitted to become so complex that the cost of its administration is unrealistic.

The Committee is of the view that under the present method of taxation, freedom and flexibility of corporate organizations have been unduly restrained for both widely-held and closely-held corporations without

regard to the requirements of efficient business enterprise. The special tax concessions made from time to time to reduce the impact of the graduated rates of taxation on corporate distributions have not provided an effective and continuing solution.

The problem affects both closely-held and widely-held corporations, but in different ways. In the case of the closely-held corporations, the continued accumulation of earnings to which is attached a contingent tax liability at graduated rates poses a serious problem for the shareholders and their estates. The widely-held corporations are only concerned if they have one or more subsidiaries whose accumulated earnings are, or can become, designated. The shareholders of a widely-held public corporation whose shares are listed on a recognized stock exchange are in a different position from those in closely-held corporations because the listed shares may normally be sold without tax liability at a price which reflects their interest in the accumulated earnings. It might therefore be claimed that any solution should differentiate between these two classes of corporations. Experience has shown, however, that any attempt to provide a satisfactory statutory definition of either of these broad groups has never been entirely successful. This follows from the variety and complexity of business organizations in which no all-inclusive definitions can equitably cover every situation. Therefore, we have attempted to find a solution which, in so far as possible, will meet the needs of both classes.

The tests the Committee has set for itself in coming to a new approach are summarized as follows:

1. That any recommendation to be made should be as simple as possible from a technical point of view;

2. That administrative ease and protection to the Revenue should be as great as possible;

3. That the proper and necessary retention of earnings for use in the business should not be prevented;

4. That the maximum distribution of corporate earnings, consistent with proper retention, should be encouraged;

5. That any recommendation to be made should be directed towards encouraging greater Canadian ownership of Canadian industry; and

6. That, consistent with the foregoing objectives, any recommendation to be made should be as equitable as possible.

With these tests in mind, the Committee recommends that in lieu of the present complex provisions and rates, there will be a uniform rate of a Shareholders Tax on dividends of 15% withheld at the source. In the event that it is considered desirable as a matter of policy that the Shareholders Tax be increased on a limited progressive basis, we indicate the limits of such increased tax in order to maintain the effectiveness of our recommendations. We also recommend a distribution incentive allowance be granted on an annual basis to certain Canadian corporations for dividends paid to Canadians out of earnings after December 31, 1960.

The detailed recommendations and the explanations

thereunder are as follows: <u>Shareholders Taxes</u>

1. All shareholders receiving from Canadian "taxable corporations" (as presently defined in Section 38(2)) dividends, including "deemed dividends," shall pay a Shareholders Tax of 15% on the amount of such dividends, after deducting depletion allowances, if any, herein called "Canadian Dividends," and the payer corporation shall withhold therefrom the said tax and remit the same to the Receiver General of Canada on behalf of the shareholder. This tax is payable on the gross amount of Canadian Dividends without deduction for interest or other carrying charges.

We believe that in principle a flat rate withholding tax on corporate distributions is the practical answer to the problems under consideration by this Committee. Because corporate profits are now taxed at rates which are not truly progressive but distributions of profit are subject to a second tax at steeply graduated personal rates, it is inevitable in our view that shareholders will attempt to avoid the full burden of the second tax. This applies to a greater or lesser degree to all corporations whether closely-held or widely-held.

The theory of the progressive rates of tax must, in our opinion, be discarded or substantially modified for corporate distributions by both closely-held and widely-held corporations in the interests of a sounder and more efficient and effective overall tax system in Canada. We have outlined in this Report many of the anomalies and

inequities arising out of the present system of attempting to marry the two opposite concepts of taxation, namely, the flat rate principle inherent in the taxation of corporate earnings and the graduated rates applicable to the subsequent distribution of such earnings.

The basic idea in this proposal is therefore to impose a flat withholding tax, and as such, is simple in conception and application. It is self-evident that a withholding tax facilitates collection and offers greater protection to the Revenue. According to the most recent statistics available, there appears to be some $150 millions of dividend payments to persons who were not required to file returns or, being so required, failed to report such dividends. To the extent that any part of this amount should have been so reported for tax purposes, the withholding tax will ensure more effective assessment and collection.

We feel that the rate of Shareholders Tax should be fixed at 15%, because it has already been established as a principal rate for corporate distributions under the special taxes already referred to and for the purpose of non-resident taxation. The uniform rate for residents and non-residents simplifies corporate administration.

It is our view that if our recommendations are adopted, the tax avoidance practices reviewed in this Report would be substantially eliminated. As a consequence, we recommend that the special taxes provided in Sections 47(4), 105, 105A, 105B and 105C, and the Designated Surplus provisions in Section 28, all be repealed and that Section 81, which sets out the situations constituting deemed

dividends, be retained and expanded to cover benefits and loans in Section 8, and the disappearance of surpluses now subject to tax under Sections 105A, 105B and 105C. We have prepared a summary analysis of the principal sections in the Act affected by our recommendations, together with suggestions as to the changes required. This analysis appears as an Appendix annexed to this Report.

Distribution of earnings to Canadian shareholders may be made in cash at a uniform tax cost so that the present graduated rates of tax on dividends, one of the chief causes for reluctance to distribute, are eliminated, subject to any modification of the Shareholders Tax mentioned hereunder. To the extent that a corporation wishes to declare a stock dividend, it may do so at any time provided that 85% of the total dividend is payable by the issue of shares and the balance of 15%, being the Shareholders Tax, is payable in cash and remitted to the Receiver General of Canada.

The Shareholders Tax applies to the exempt persons listed in Section 62 of the Act. It is the opinion of the Committee that generally no concession should be made with respect to these persons having in mind the special tax treatment already enjoyed by them and the universal character of the proposed Shareholders Tax. However, considering the continuing need to encourage charitable activities in the community, it may be desirable to grant refunds of Shareholders Tax to those entities described in Section 62(1)(e), (f) and (g). If the refund is extended to these entities, we recommend that for non-profit

corporations and trusts under paragraphs (f) and (g) the right to a refund be withdrawn if such corporation or trust holds more than a 10% interest in the corporation.

Intercorporate dividends

2. The Shareholders Tax of 15% shall be deemed to have been withheld in respect of any payment of a Canadian Dividend out of the shareholder's portion of the payer corporation's tax-paid undistributed income as of the time of the payment of such dividend. Therefore, no further withholding tax will be payable in respect of the amount of such dividend. Tax-paid undistributed income of a corporation shall mean the aggregate of the tax-paid undistributed income of the corporation as presently defined by Section 82(1)(b) and net Canadian Dividends received.

The Shareholders Tax applies to Canadian Dividends received by other Canadian corporations, but re-distribution of such Canadian Dividends is not subject to a further 15% withholding tax. The receiving corporation will include such Canadian Dividends, less the 15% tax withheld, in its tax-paid undistributed income. Therefore, the freedom from tax of inter-corporate dividends is preserved to the extent that the receiving corporation pays out such Canadian Dividends to its own shareholders. In such case, there is in effect a prepayment of the 15% Shareholders Tax for the ultimate shareholder. This may tend to encourage more prompt re-distribution of such dividends.

Canadian Dividends otherwise exempt

3. Canadian Dividends shall be excluded from the computation of taxable income of Canadian resident persons for income tax purposes. The dividend tax credit provided in Section 38 shall be repealed.

The Shareholders Tax of 15%, subject to possible modification thereof as indicated hereunder, is intended to be in full, complete and final settlement of tax liability in respect of corporate distributions by way of Canadian Dividends to Canadian resident shareholders. This has the effect of removing such dividends from the present graduated tax structure and of recognizing the special tax character of distributions of corporate earnings already subject to tax in the hands of the corporation. The anomalies referred to above with respect to the effect of the present 20% tax credit will be removed.

Refund or Tax Credit

4. A refund of Shareholders Tax of 15% of Canadian Dividends received by Canadian resident individuals shall be allowed to individuals having an aggregate of taxable income (as re-defined) and Canadian Dividends not exceeding $10,000;

Alternatively,

If it is considered desirable to maintain the present special privileged position of such individuals who because of the 20% Dividend Tax Credit have an additional credit against taxes on their other income, it would then be necessary

that the refund or tax credit referred to above be increased from 15% to 20%. However, in such case, the refund should be limited to the aggregate of Shareholders Tax and the tax otherwise payable in respect of taxable income (as re-defined).

The Shareholders Tax is applicable to all Canadian Dividends paid. The effect would be to tax a large group of Canadian individual shareholders who are now wholly or partially exempted from tax by reason of the 20% Dividend Tax Credit. The 15% refund recommendation is designed to recognize in part the present favourable tax treatment for this group. We are of the view that no new tax burden should be imposed on this group which might have the effect, directly or indirectly, of discouraging them from continuing to invest or acquiring new investment in Canadian industry.

No refund will be made to the unincorporated entities described in Section 62 or their members, subject to our observations regarding charitable entities.

The refund should not extend to trusts or entities under Section 63 taxed as such but the individual beneficiary's right to a refund upon distribution will be preserved as if he had received the Canadian Dividend directly.

Therefore, the Committee feels justified in modifying its basic recommendation of a 15% flat Shareholders Tax by providing for a refund or tax credit of such tax within certain income tax brackets. The taxable income bracket under $10,000 was chosen by the Committee

because of the existing situation. It should be noted that the present 20% credit applies only against taxes otherwise payable and no direct refund is permitted. Our recommendation contemplates an actual refund of the 15% tax withheld to the extent that there is not other tax payable.

The Committee is not in favour of extending the refund or tax credit to the present rate of 20%. Such extension can only be justified on the ground that this additional tax advantage already exists.

Modification of Shareholders Tax

5. If it is considered desirable to introduce a limited degree of progressiveness into our recommendations, the 15% Shareholders Tax might be modified as follows:

BRACKET (AGGREGATE OF TAXABLE INCOME AS RE-DEFINED PLUS CANADIAN DIVIDENDS)	RATE ON PORTION OF "CANADIAN DIVIDEND CONTENT IN EACH BRACKET"
Under $10,000	Nil
$10,000 to $25,000	15%
$25,000 to $90,000	25%
$90,000 to $400,000	30%
Over $400,000	40%

"Canadian Dividend Content in each Bracket" means the amount of Canadian Dividends in addition to taxable income (as re-defined), if any, in the bracket.

15% of Canadian Dividends shall be withheld by the corporation as hereinbefore recommended and applied on account of the above tax and the remaining amount (if any), shall be paid by the shareholder.

We adhere to the basic principle that the Shareholders Tax should be fixed at a flat rate of 15%. However, if it is considered desirable as a matter of policy to modify the flat rate to introduce a limited degree of progressiveness, the above rates are the maximum rates which we could recommend. If these rates are exceeded, the problems that our recommendations are designed to remove will continue. Even the above rates will invite, in some degree, resort to devices to avoid these taxes. We believe that it is preferable for a system of tax to be introduced which would ensure actual collection of a fixed tax at source in a reasonable amount instead of a system which imposes a highly graduated tax in theory, but which fails to yield the expected revenue. The foregoing rates are also the maximum rates which can be justified in the light of the present tax cost of corporate distributions under the methods now expressly condoned or encouraged by the Act.

We emphasize that the 15% Shareholders Tax is a levy on the gross amount of dividends without deduction for interest or other carrying charges and, therefore, to this extent is not comparable to tax payable according to the present rate structure. However, if a limited degree of progressiveness is to be introduced then it may be necessary to permit the deduction from Canadian Dividends of such interest or other carrying charges.

Pre-1961 Undistributed Income

6. The transfer of undistributed income between corporations shall be permitted within a reasonable time to be fixed with respect to

undistributed income at the end of the 1960 taxation year on the basis of the present provisions of the Act to the extent applicable to such corporations on the date of the implementation of these recommendations.

Similarly, the right to elect to pay the special tax of 15% under Section 105 shall also be continued for such reasonable time to be fixed on the basis of the present provisions of the Act to the extent applicable on the date of the implementation of these recommendations.

Distributions by cash dividend or otherwise of tax-paid undistributed income arising out of the application of the present provisions of the Act shall not be subject to further tax.

The purpose of the transitional provisions is to enable corporations to review their position and to take the necessary steps to make such adjustments as may be desirable on the present basis within a limited time to be fixed. The effect of this recommendation is that any corporation which is now in a position to receive tax-free dividends from another corporation with respect to surpluses accumulated up to the end of the 1960 taxation year will continue to have this right for the transitional period without being subject to the 15% Shareholders Tax.

Corporations which were entitled to elect to pay the special 15% tax in respect of any part of their undistributed income will be permitted to do so for such

limited time. This recommendation for the continuance of the right to pay the Section 105 tax of 15% is necessary only in the event that provision is made for an increase in the rates of Shareholders Tax over 15%.

The intent is to ensure that upon the implementation of these recommendations any vested rights under the present law shall be continued for a reasonable time and to prevent the new legislation from having any retroactive taxing effect.

Withholding Tax on Non-Residents

7. The Shareholders Tax withheld shall be deemed to be on account of the 15% non-resident tax under Section 106(1)(a) of the Act.

A uniform withholding tax of 15% for residents and non-residents results from these recommendations. In the case of non-residents no deductions from dividends will be allowed. One effect of such a universal application of the withholding principle is that it will no longer be possible to avoid the payment of the 15% withholding tax in respect of dividends paid by Canadian corporations to such non-residents.

Distribution Incentive Allowance

8. As an incentive to certain Canadian taxable corporations to distribute their earnings to Canadian resident shareholders, a special tax abatement shall be allowed to such a corporation equal to a percentage of Canadian Dividends paid by it to them out of its earnings subsequent to December 31, 1960, (excluding Canadian Dividends and exempt income received and dividends

or other distributions received under the transitional provisions). The rate of abatement shall be reviewed annually, with a suggested rate of 10% for 1961.

Aside from necessary retention of corporate earnings for the purpose of business expansion and development, the directors of closely-held corporations are often discouraged from adopting a policy of maximum dividend disbursement because of the presently highly graduated tax rates applicable to individuals. While the Committee is of the opinion that its recommendations respecting the 15% Shareholders Tax will tend to solve this problem, some closely-held corporations may still postpone distribution. In the case of widely-held corporations, some direct advantage to the corporation itself may be necessary to encourage maximum distributions. Therefore, it would seem desirable for both closely-held and widely-held Canadian corporations that an effective incentive to distribute should be granted in the form of the corporate tax abatement recommended.

A corporation under this recommendation would be entitled to a tax refund in respect of any abatement to which it became entitled during a year in which it had no income tax to pay. As the abatement may be claimed only for payments to Canadian residents, no abatement will be allowed in respect of dividends paid to a non-resident shareholder.

In the case of a Canadian addressee who is the agent of a non-resident, it is recommended that provision be made requiring the Canadian addressee to notify, in

prescribed form, the corporation that he is agent of a non-resident, and if such agent fails to do so, he be subjected to a penalty equal to 15% of the net dividend actually received after deduction of the 15% Shareholders Tax. For this purpose a non-resident-owned investment corporation will be deemed to be an agent for a non-resident.

In the case of dividends paid out of tax-paid undistributed income to non-residents, it is recommended that Recommendations Nos. 2 and 7 be modified so that the 15% Shareholders Tax shall be payable. This is to prevent the benefit of the abatement provisions from flowing to non-residents through one or more Canadian resident corporations. It should be noted in this connection that if the corporation has moved undistributed income up under the transitional provisions, this would have been done on a tax-free basis.

The abatement provisions should be on an annual basis so that the amount of the allowance can be reviewed and adjusted, if necessary, for the degree of incentive appropriate for each year.

There are certain corporations for which no tax incentive to distribute will be allowed. These are the investment companies under Section 69 and the non-resident-owned investment corporations under Section 70. In addition, it will be necessary for provision to be made so that any corporation whose principal business is that of investment will not be entitled to abatement.

Personal Corporations

9. In the light of the recommendations made

above, the provisions relating to personal corporations shall be repealed.

The new approach to the taxation of corporate distributions will make the retention of the personal corporation concept no longer necessary. Our recommendations provide for a 15% withholding tax on all Canadian Dividends whether the shareholder is an individual or a corporation. Therefore, there is no further tax to be paid in respect of such dividend. To the extent that the 15% Shareholders Tax is modified for individual shareholders in certain brackets, the receipt of Canadian Dividends by an investment holding corporation can have the effect of postponing the payment of any additional Shareholders Tax. We are of the opinion that this possible effect does not justify the retention of the acknowledged highly artificial and complex provisions considered necessary for the enforcement of the personal corporation concept.

With respect to income other than Canadian Dividends received by investment holding corporations, the corporate rates of tax will be payable and the distribution of the earnings will be subject to the Shareholders Tax.

The repeal of Sections 67 and 68 should have effect for the taxation year commencing after the date of the implementation of the Committee's other recommendations and subsequent taxation years. Up to the commencement of such taxation year, as a transitional provision personal corporations under the present legislation shall continue to be treated as such so that their income will be deemed to be distributed and taxed to the shareholders on the last

day of their current taxation year on the following basis. Income, including dividends, received by the corporation before the implementation date will be taxed on the same basis as under the present legislation. Income, including Canadian Dividends, received by the corporation after the implementation date will be taxed in accordance with the new legislation.

It is well known that the personal corporation provisions contain a large number of anomalies and inequities which often lend themselves to many abuses. Therefore, this recommendation simplifies the Canadian Income Tax Act by removing another of the more troublesome and complicated provisions of the Act.

CONCLUSION

The Summary of the Findings upon which this Committee has based its Recommendations and a Summary of the Recommendations themselves are set out at the beginning of this Report.

In adopting a new approach to the taxation of corporate distributions we have proposed two basic concepts for the Canadian income tax system: first, a withholding tax on corporate distributions and second, an incentive allowance for distributions to Canadian residents. We are of the belief that the implementation of our recommendations will materially aid in the development of the Canadian economy. While it is impossible to forecast with any degree of certainty the effect on the Revenue of any new system of taxation designed to change the present pattern

of corporate distributions, we are of the opinion that our recommendations can be implemented without substantial loss of revenue.

RESPECTFULLY SUBMITTED,

R. Bredin Stapells
A. Emile Beauvais
Harold P. Herington
George T. Tamaki

March 21, 1961

APPENDIX

SUMMARY OF PRINCIPAL SECTIONS AFFECTED BY RECOMMENDATIONS, TOGETHER WITH SUGGESTIONS AS TO CHANGES REQUIRED

We set hereunder the principal sections of the Income Tax Act which are affected by the recommendations of the Committee, together with some suggestions as to the nature of the changes required:

Section of Income Tax Act	Suggested Change
6 (1) (a) (i)	Exclude "Canadian Dividends" to be defined
6 (1) (i)	Repeal
8 (1)	Repeal and treat benefit as deemed dividend under S. 81
8 (2)	Repeal and treat benefit as deemed dividend under S. 81
8 (3)	Repeal and transfer to S. 81
11 (1) (da)	Repeal - but add repayment to corporation's tax-paid undistributed income

Section of Income Tax Act	Suggested Change
11 (2)	Amend regulations to provide for allowance in respect of "Canadian Dividends"
12 (1) (f)	Amend to delete reference to "personal corporation"
26 (2)	Amend to add "Canadian Dividends" to income of spouse
28 (1) (a)	Repeal
28 (1) (c)	Repeal
28 (2)	Repeal
28 (3)	Repeal
28 (4)	Repeal
28 (5)	Repeal
28 (6)	Repeal
28 (7)	Repeal
28 (8)	Repeal
28 (9a)	Repeal
28 (9b)	Repeal
28 (11)	Retain but extend to reduce loss, if any, on securities by Canadian Dividends received in respect thereof
28 (12)	Repeal
32 (8)	Amend to provide for addition of "Canadian Dividends" to income of dependant
38 (1)	Repeal
38 (2)	Repeal

Section of Income Tax Act	Suggested Change
38 (3)	Repeal
38 (4)	Repeal
47 (4)	Amend to exclude "Canadian Dividends"
62 (1) (f)	Amend to include net "Canadian Dividends" in income
62 (1) (g)	Amend to include net "Canadian Dividends" in income
63 (11)	Repeal and substitute provision confirming refund or additional tax, as the case may be, for Canadian Dividends received from a trust or estate
65	Amend to exclude payments of "Canadian Dividends"
67	Repeal
68	Repeal
79 (6a)	Repeal
79 (6b)	Repeal
81	Amend to add to deemed dividend provisions, situations presently covered by Sections 8(1), 8(2), 8(3), 105A, 105B and 105C
81 (5)	Amend to extend to S. 8, "deemed distributions"

Section of Income Tax Act	Suggested Change
82 (1) (a) (iv)	Amend to reduce deduction of capital loss in respect of shares to amount of "Canadian Dividends" received so as to prevent such loss from being applied against purchasing company's undistributed income
82 (6)	Amend to provide for discontinuance of personal corporation status
105	Repeal, and substitute new Part II incorporating provisions relating to Shareholders Tax and Abatement Allowance
105A	Repeal
105B	Repeal
105C	Repeal
111	Amend to delete reference to "personal corporations"
117 (1) (i)	Amend to add "Canadian Dividends" to income of dependant
139 (1) (o)	Amend to exclude reference to S. 28(2)
139 (1) (ad)	Repeal
139 (1) (au)	Amend to extend to inter-corporate dividends
139 (1) (ba)	Amend to include Shareholders Tax and to delete reference to present Parts II, IIA, IIB and Part IIC

ROYAL COMMISSION

ON

TAXATION

HEARINGS

HELD AT

TORONTO
ONT.

VOLUME No.: DATE:

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ROYAL COMMISSION ON TAXATION

Hearing held in Howard Ferguson Auditorium, Sir Daniel Wilson Residence of University College, University of Toronto, Toronto, Ontario, on Thursday, the 9th day of May, 1963.

COMMISSION:

MR. KENNETH LeM. CARTER --- Chairman

MR. J. HARVEY PERRY

MR. A. EMILE BEAUVAIS

MR. DONALD G. GRANT

MRS. S.M. MILNE

MR. CHARLES E.S. WALLS

LEGAL ADVISER:

MR. J.L. STEWART, Q.C.

RESEARCH DIRECTOR:

PROF. D.G. HARTLE

SECRETARY:

MR. G.L. BENNETT

ROYAL COMMISSION ON TAXATION

HEARINGS HELD AT THE CITY OF TORONTO, ONTARIO

May 9, I963

TOPICAL INDEX VOLUME No. I7

Legend (≠) Indicates page to and from

Toronto, May 9, 1963

United Electrical, Radio and Machine Workers of America — Volume No. 17

ANGUS. STONEHOUSE & CO. LTD.
TORONTO, ONTARIO

Toronto, May 9, I963

United Electrical, Radio and Machine Workers of America — Volume No. I7

INDEX OF EXHIBITS

A/MR/dpw

--- On commencing at 9.30 a.m.

THE CHAIRMAN: Mr. Secretary, are we now ready to proceed?

THE SECRETARY: All ready, sir.

THE CHAIRMAN: Would you introduce our visitors to us?

THE SECRETARY: Mr. Chairman, Commissioners, this morning we have with us officers of the United Electrical, Radio and Machine Workers of America. Mr. C.S. Jackson is President. He is here this morning to speak to their brief. He will introduce his colleagues.

I would like to enter into the record, as Exhibit No. 56, the brief submitted by the United Electrical, Radio and Machine Workers of America.

--- EXHIBIT NO. 56: Submission of United Electrical, Radio and Machine Workers of America.

SUBMISSION OF UNITED ELECTRICAL, RADIO AND MACHINE WORKERS OF AMERICA

Appearances: C.S. Jackson, President
E. Adams
Ray Peters

THE CHAIRMAN: Thank you, Mr. Secretary. Good morning, Mr. Jackson, gentlemen. Thank you for your very complete and detailed submission. It is one of the most detailed we have so far received. This caused us to do a considerable amount of work, I am pleased to say, and we wish to ask questions and to examine on it. To do justice to your brief, we have prepared a number of questions.

What's more, we have asked our legal adviser to be here to ask some questions. Sometimes he does, sometimes he doesn't. It depends on what we have before us; how much there is to do. We thought this time it might be a good time to have him here and to ask some of the questions.

We, of course, will reserve some for ourselves.

Mr. Jackson, it is our custom not to ask the participants to read the submission to us, but to speak to it. If you wish to summarize it, you may do so, or to do what you please, but I would appreciate your introducing your colleagues, Mr. Jackson, and please continue to remain seated if it suits you.

MR. JACKSON: Thank you, Mr. Chairman. On my left is Mr. Ray Peters, member of the National Executive Board of our Union. On my right is Mr. Adams, who is consulting economist to the Research Department of our Union.

I appreciate the fact that the Commission have looked over this brief. Thank you for your kind words. I would like to make a few observations and probably even in a synoptic way underscore the main aspects of our brief.

In the first place, we are a trade union, as you know. We represent, in the main, the workers of the electrical industry concentrated, by and large, in the Province of Ontario. The concern of the Union, naturally, is the question of the living standards, income protection of its members, and within the framework of that, naturally we are concerned not only about the gross income but the net spendable income of our people.

Likewise, we are quite concerned about the job

opportunities and security of our people and it is in that respect that we were instructed by our last convention to prepare a brief to present to this Commission to bring forward the problems of the working people, not only in our industry, because we are interrelated in our problems as working people, and to present our views as expressed at different times in previous conventions, probably in a different form than we have presented here today, but, nevertheless, having the same end result: that of providing at least a standard of health and decency for the working families, and to make some contribution to the employment situation.

Our membership, from time to time, have stressed what they consider is the inequality of the burden of taxation and from time to time have proposed various types of deductions the working family should be allowed, and contrasted it to the types of deductions that are permitted for incorporations. In particular, they have raised the question of being relieved, through deduction, of the burden of mortgages and interest, property taxation and looking at the way in which corporations report and set up their deductions; the question of transportation, the question of tools and various types of clothing.

In our approach to this brief, we have not chosen to move in those specific directions, but we did arrive at the same result by a different route, that of relieving the working families of the heavy burden of taxation that is imposed on them and which, as we say, contributes to both reducing the living standards of most of the people in the country and, by the same token,

reducing the consumption demand in the country.

We have done some research work as to the impact of taxation on a working family, taking as our example an average worker in our industry and we find that the impact on the family where there is one income runs around 26.8% taxation. For a one-and-a-half income family, 29.4 - and this is without including unemployment insurance and the Ontario Hospital Services charge - and we came up with a budget for the average worker in this industry of $4,154 for the single income family and for the one-and-a-half income family, $5,749.

We related those, without taking into account the impact of taxation; what would be considered as a level of poverty, of deprivation, in this country. We have no statistics at the moment, other than to refer to statistics available in the United States and in a report in 1962 from Mr. Leon Kyserling through the Conference of Economic Progress. Mr. Kyserling comes up with a formulation of a poverty level being anything under $4,000 a year income. The second level which he has set out as a deprivation level would be between $4,000 and $6,000 a year.

He has a third category which he classifies as comfort which would be some $6,000 to $7,500 a year. We are just drawing the attention of the Commission to the fact that prior to our taking into account what is left after the impact of taxation, the average worker in this industry, which compares probably with the manufacturing industry, is in that area of either poverty or deprivation and, therefore, the necessity of relieving the tax burden on these people becomes quite vital

for the welfare of the families and, by the same token, for the welfare of the nation.

In Canada, it would appear there are roughly one million families that are at the level of $3,500 or lower, so we are speaking for quite a broad section of the people when we are talking about a level of $4,150 for a single-income family.

In drafting up our position, we have tried to make it clear that our concern is for the establishment of a minimum level of income for a family, a spendable income, and in arriving at that situation there would be set loose a considerable injection into the consumption stream which, as we see it, would be 100% in its effect on consumption demand and would find its reflection in increased employment.

In attempting to work out a ratio between increased consumption demand and employment, we have struck a figure of roughly $7,500 in consumption demand, equating to one job, and the proposition we have made for relieving taxation would add up to creating roughly 130,000 new jobs. We consider this as a very conservative estimate because we have not introduced any multiplier into this picture, although there are other authorities which consider a multiplier of two to one.

In particular, we refer to a study of the University of Michigan that they undertook which considers that the multiplier of two to one is not excessive.

We are concerned about the unemployment situation in this country which affects our people in one degree or another and therefore we think that the Commission, within

its terms of reference, also has this side of the question to look at and that it is necessary, therefore, to view the taxation question first in terms of its effect on living standards. Secondly, in terms of the effect on employment.

2 It is our considered opinion, and we have quoted a few authorities in support of it, that the total corporation tax is passed on through pricing to the consumer. The argument, by and large, flows from the existence of near monopolistic conditions in industry in Canada, and that they are quite able to pass on the full impact of corporate taxation, and that, if so, they are establishing a price which permits, or includes, the corporation taxation of other smaller corporations.

We have dealt with the loopholes that we see in the tax situation today; the tax havens that are available, and we, therefore, propose as a means of covering up these loopholes, we propose a capital gains tax. This would also include undistributed profits.

We believe that with an initial reduction of the sales tax to 2%, with the elimination of the federal excise taxes and with capital gains tax, as we propose, that this opens the way to move in the direction of total elimination of all sales taxes and corporation taxation which will be applied, based on an ability to pay all increments in wealth above minimum requirements for minimum living standards, and this, we believe, would point the way for a substantial improvement in the development of the G.N.P.

We would like to add one point to our brief, and

that is regarding dividends and the earnings received or accruing to persons resident outside the country. In approaching this question, we would consider that a corporation outside the country receiving dividends, and/or interest, we would suggest should be considered as a person and that the taxation should be collected by the company declaring the dividend, paying the interest, and should be applied on the basis of the individual rate on taxation, in line with the scale that we have proposed in our brief so that a corporation taking out one million dollars in dividends would become taxed as an individual having an income of one million dollars and would be taxed on the appropriate rate in the scale.

We would consider that undistributed profits, likewise, should be part of that calculation of income for persons received outside the country.

I think that that, in the main, is just a refresher, so to speak, for myself, for the Commission. Those are the main points we want to just make at this stage.

THE CHAIRMAN: Thank you, Mr. Jackson. Before we proceed to a detailed examination, which I would like to do this morning, might I ask you one question which just comes to mind from your words? You have referred to two, I think, U.S. studies; at least one, because there was no similar Canadian study.

Just how do we equate U.S. figures to Canadian figures? Do you think living costs in the States are roughly comparable to those in Canada?

MR. JACKSON: The studies did not disclose too

great a difference. If we take an American city of comparable position in the country, and a Canadian city having comparable position in this country, it is not too great. I would say at the most, if we look at living standards equally, first of all, the $4,000 that we referred to was the 1962 figure. I would think that the $4,000 figure in the United States today would pretty well equal the $4,000 figure here. There might be a slight reduction. It was a 1960 figure, pardon me. It was published in 1962.

THE CHAIRMAN: Mr. Stewart, might we ask to proceed with a few questions?

MR. STEWART: Yes, Mr. Chairman.

THE CHAIRMAN: Mr. Jackson, you will direct our questions to whomsoever you wish to reply, as we go along.

MR. STEWART: Mr. Jackson, I will plan to deal with some of the points that you raised in your preliminary statement as we go along here. I think the simplest course may be to refer to some parts of your brief, more or less in order, and starting on page 1 I would like to ask you a couple of questions arising out of paragraph 2.

In paragraph 2 you set out what we might call four functions of government, the fourth of which is the promotion of economic development and growth. Now, I wonder if you could briefly indicate what you consider the function of government under that particular heading to be?

MR. JACKSON: I will refer that question to Mr. Adams.

MR. ADAMS: Well, the discussions that we have

had in the Union on this general subject run something like this: that the welfare of the people of the country is, in the last analysis, the main responsibility of the Government; in the last analysis the senior Government, and that if economic conditions develop to the point where the welfare of the poeple is being jeopardized by lack of demand or lack of development capital in a particular area, or large pockets of pretty permanent unemployment, that it is the responsibility of the Government to do something about it.

What you do depends on the particular time and particular circumstances, naturally. I think that the thinking of the Union in this particular formulation, promotion of economic development and growth, was mainly not the generally espoused conception of using monetary and fiscal policy, but more direct intervention in the economy to do things that are needed.

B/ET/dpw

The Union, for example, has gone on record in previous briefs to the Government that on the important question of substituting Canadian manufacture of parts and components now imported from the States mainly, that if other methods, indirect methods, of stimulation do not seem to do the trick, then the Government should go as far as setting up a Crown corporation to do a particular job. That is the kind of thing that I think was envisaged in this formulation here. I do not know whether that answers your question fully or whether Mr. Jackson would like to amplify it, but that is my understanding.

MR. STEWART: You envisage, in that regard, very real intervention of government in the economic life of the country?

MR. ADAMS: When it becomes necessary.

MR. JACKSON: By and large, we would assume the question of economic development should be handled rather through borrowing than through the use of taxation revenue.

MR. STEWART: That was going to be my next question, Mr. Jackson. I was not quite clear from your paragraph 2, and I thought perhaps you could enlighten us on this. Why do you think this type of government activity should be financed by borrowing rather than current revenue?

MR. JACKSON: When we look at the revenue situation today and the needs of the people of the country and the way in which the revenue is expended, it is our view that the amount that is set aside for social security is quite inadequate for the needs of the people of today.

We have a strong position which is a position of long-standing in this Union that there is a disproportionate

amount of revenue allocated to defence expenditures. We do not believe that they are necessitated by the role that Canada plays in the political situation in the world today. We feel that a transfer of those expenditures from the defence budget to the social security in particular, and in meeting the requirements of minimum living standards in the country have priority.

MR. STEWART: Well then, it comes down to this: I take it that in your opinion the current revenues will do no more than finance the first three functions that you refer to here, and therefore the financing of the fourth must come out of borrowing?

MR. JACKSON: We would say, by and large, that should be the case, although depending on the urgency of the situation, of our political aspect, of the economy at a given time, that the Government should be prepared to move into this field.

These are not new fields. We have the example of Polymer, for instance, which happens to be quite a lucrative undertaking on the part of the Government. Because of our strong belief in the necessity of development of secondary industry in this country, and the fact that secondary industry to the extent it is developed in this country is owned, by and large, outside of the country, it might be necessary from time to time for the Government to move into this field in order to ensure the adequate development of secondary industry to provide necessary employment in this country.

MR. STEWART: Might I ask you this: I was rather intrigued by a statement which is made on page 55

of your brief, and this is buried in paragraph 102, sub-paragraph 3, where you indicate that: "should private investment fail to flow into the most needed places it is always possible for government to channel part of the savings of the community in the desired direction."

Now, is there any connection between that statement and the paragraph we are discussing now, and in particular the promotion of economic development and growth by the Government?

MR. ADAMS: Yes, there is a very direct connection.

MR. STEWART: Would you enlarge on that, please?

MR. ADAMS: Well, I think the example I gave is a good one. If, in the attempt to stimulate production of parts, say, in Canada that are now imported, other incentives and stimulants fail, the Union believes that it would be proper in a given set of circumstances for the Government to set up a Crown corporation to do the job.

If the Government has to borrow the money to do it, they will, in fact, be channelling part of the savings of the community into a particular desired project.

MR. STEWART: In other words, they borrow from the private sector of the economy for expansion of the public? You nodded. I think you agree with that statement?

MR. ADAMS: Yes, yes.

MR. STEWART: This would seem to indicate that your general approach is that the function of government in this country is likely to increase and that the revenues

which governments will require will constitute an increasing proportion of our national income.

MR. JACKSON: Yes.

MR. ADAMS: Not necessarily an increasing proportion. If the national income develops and expands it might be the same proportion but would produce very much bigger government revenues.

MR. STEWART: I notice on page 2 of the brief you say in paragraph 4(b) that part of your fundamental tax philosophy is that all taxes are ultimately paid by people and come out of the current production of society.

Your general approach, however, would be that taxes in the aggregate are or are not likely to increase as time goes on?

MR. JACKSON: You are speaking about the percentage or are you speaking about the gross amount?

MR. STEWART: I think it would be clearer to keep this on a percentage basis.

MR. JACKSON: It does not necessarily follow that the increase will be a percentage increase. We have set out a mode of taxation which in our opinion applied regardless of the level of the G.N.P. would meet the requirements of government responsibility to its people.

MR. STEWART: On page 3 of the brief in paragraph 6 you give a suggested breakdown of the taxpayer's dollar in Canada for 1959. You indicate how that dollar may be considered to be allocated.

Have you any comparable study as regards the benefits which members of your Union receive from the different levels of government in this country?

MR. JACKSON: I am not sure I know exactly what your point is. What are you speaking about in terms of benefits?

MR. STEWART: Well, I am thinking of the average Canadian individual. Is there any method that you know of for assessing or valuing what he receives in services otherwise from the Government?

MR. JACKSON: What we have set out here is what we see is the way in which the benefits of taxation are distributed. If you want to use the term "benefits." Our people, all of the people in Canada, are represented in these statistics. Right? I do not quite get yet the question you are raising because when you speak of benefits to people who are union people, are you confining yourself to the benefits flowing from government expenditure?

MR. STEWART: Yes.

MR. JACKSON: Well, I find myself still quite uncertain of the point you are trying to get at.

MR. STEWART: I think I would put it this way, Mr. Jackson: you indicate here what the taxpayer dollar is used for. You indicate, at a somewhat later stage in your brief, what a typical budget for an electrical worker and his family may be. Now, would you consider that basically we all, as Canadian individuals, benefit more or less equally from the services which government provides?

MR. JACKSON: Government administration; it would be very difficult to section that up in terms of one group of people as against another. It is rather difficult, I would think.

We have pointed out that the social security aspect, for instance, which conveys such a direct benefit, measurable benefits, if you will, in our opinion is an inadequate portion of the budget.

By and large, because of this Taxation Commission, we have approached the question of achieving the minimum standard of decency and health for the people on the basis of relief of the taxation burden.

THE CHAIRMAN: Might I say one group appearing before us suggested that a study should be made as to where the social security and other government benefits accrued to the different classes of people in Canada. You have quoted the study by Goffman to us, and I think what he really meant was a similar study to that dealing with what 2 flows out of government rather than what flows in. We do not know of such a study, and I do not think one has been made, and, of course, we ask you if you do know one or if you contemplate one yourselves?

MR. JACKSON: Frankly, we are no more knowledgeable than you.

MR. ADAMS: We would like to see one.

THE CHAIRMAN: Thank you.

MR. JACKSON: The question of relating tax benefits, which I gather is implicit in what Mr. Stewart is raising - I do not know whether he is raising the question that the one who pays should receive the benefits or whether the benefits flow out of necessity and obligation of government regardless of who pays it.

MR. STEWART: I was just trying to get your general reaction to this, and I am going to come back to

the point at a somewhat later stage.

If I can pass on for the moment to page 6 of your submission; you are dealing there with the effect of a reduction of overall tax burden. You say at the bottom of page 6 that the shift of each one million dollars of tax burden off workers will create about 133 jobs.

Now, if what you are doing in this connection is shifting one million dollars from the public sector to the private sector, will the advantage to which you refer, or the possible advantage to which you refer, not be compensated at least to some extent by the loss of the benefits resulting from that expenditure in the public sector?

MR. JACKSON: No. We are arguing that in the first place revenue is not changed. It is a matter of the distribution of that revenue, the expenditure of that revenue.

We say by relieving the tax burden on a working family, that the working family will spend 100% of that relief that would go into the consumption stream and create demand, and in this way will provide jobs.

That is not true if you relieve taxation on large incomes. The relief does not show up in terms of increased expenditure, necessarily.

MR. STEWART: It may turn up in part in increased savings.

MR. JACKSON: And the question is: to what use are the savings put in the interests of the mass of the people?

THE CHAIRMAN: I do not think what is in here

contemplates a shift from one taxpayer to the other to any great extent. What I would deem as apparent in that paragraph is, in fact, a change or a reduction in expenditure by the Government and a reduction in taxation. Should that be the case I would think one would offset the other.

MR. JACKSON: No, we are dealing here with a summary which is developed in terms of arguments I draw, and we are speaking of a shift in the taxation burden from one group of people to another.

COMMISSIONER PERRY: I think in that case, then, counsel's question is all the more relevant. Generally, economists think of the role of the budget in terms of its net contribution to consumption, and attempt to achieve that through increasing the deficit. As I see your revenue estimates, there would be no change in the balance of the budget. In fact, you come out a little bit ahead on the revenue side so the deficit would be decreased.

What you are saying, in effect, is that the tax reductions that you propose represent totally or would create in total new consumption expenditure: that the way in which this money is now being spent creates no consumption expenditure. I find this hard to follow, particularly when you think of military expenditure where a good deal of it is going out to servicemen and their families.

I think, to support your proposition, you will have to establish that the way in which government spends this money now - and we are talking basically about collection of revenues to be spent by government - the way in which this money is now spent by government has no net

effect on consumption, and I find this very difficult to accept.

MR. JACKSON: We are not arguing it has no effect. We are arguing ---

COMMISSIONER PERRY: With deference, I say you are. You say the whole amount, the whole 975 million would result in an increase in consumption.

MR. JACKSON: That is true.

COMMISSIONER PERRY: You are saying there is no net effect on consumption from present expenditures.

MR. JACKSON: We are saying that the whole 975 million would constitute increased consumption demand because the relief happens to be on those incomes where they are not meeting all of the needs of minimum health and decency; therefore, any relief immediately constitutes increased consumption demand on the part of the people.

COMMISSIONER PERRY: You are saying none of this $975 million is being spent on consumption now.

MR. JACKSON: That is right.

COMMISSIONER PERRY: This is quite difficult for me to accept.

MR. JACKSON: We are saying a small proportion of it is being spent, if any. We are robbing the consumption stream of that amount according to our position.

COMMISSIONER PERRY: We have established the point, and I find it very difficult to accept myself.

MR. JACKSON: We also refer you to the fact that in Canada today we are operating under far less than 100% of utilization of capacity. We have a half-million unemployed in the country. Obviously, there is a lack of

consumer demand to provide production demand to employ those people and use that capacity.

COMMISSIONER PERRY: If you were arguing for an increase in the federal budget deficit of this amount, I could easily follow you. However, let us go on from this point. I just wanted to make sure that I understood your proposition.

C/PB/ss

I would like to move on to page 8, if I may. In paragraph 12 on that page you refer to the average wage for the electrical industry in 1961, and you take that average as $3,986.00. I take it that when we are considering average wages in this connection we take the average of the male and female workers in the industry?

MR. JACKSON: It is the average for the industry.

MR. STEWART: It includes males and females. There is some differential in between wages of males and wages of females?

MR. JACKSON: That is right.

MR. STEWART: For purposes of clarification, when you use in your examples a family income at the bottom of the page, a man working full time in the industry, in fact, an average man in the industry would have a higher income per month?

MR. JACKSON: We agree that the average does include females. We would suggest, however, if we used the straight male figure that the conclusions we draw wouldn't be fundamentally different. Secondly, there are many females working today who are supporting dependents and, therefore, have the same expenditure problems as males who are working. In that sense I don't think that point destroys the substance of our argument.

MR. STEWART: I wasn't suggesting that at the moment. Are there figures which indicate what the male average is and what the female average is?

MR. JACKSON: There are figures.

MR. STEWART: Could you give us an approximation?

MR. JACKSON: They are not monthly figures. They

are yearly.

MR. STEWART: Just as a matter of curiosity, what would they be approximately?

MR. JACKSON: I would say the average differential would be between 20 and 25 cents an hour.

MR. STEWART: 20 and 25 cents an hour?

MR. JACKSON: 20 and 25 cents an hour.

MR. STEWART: Can you relate that to this figure of $3,986.00? What would the male corresponding figure be and what would the female corresponding figure be?

MR. JACKSON: A difference of $500.00 or $600.00, possibly.

MR. STEWART: Now, I would like to go over to page 15, paragraph 23, where you talk about income redistribution in relation to social security expenditures. In sub-paragraph B you say this:

> "The greater part of Government interest charges, amounting to about half the social security total, goes back to the wealthy, either directly or through the institutions that they own".

Well now, this expression "wealthy", I would like to explore a little bit. Would this include, for example, the people who subscribe for Canada Savings Bonds? Would it include the insurance companies which buy Government bonds? Would it include the pension funds which buy Government bonds? Would it include the non-residents who buy Government bonds of one kind or another?

MR. JACKSON: It would certainly include non-

residents. I don't think you would find a very great proportion of the national debt or interest charges accruing to working people, and certainly not in the budget area we are talking about, $6,000.00 for a family unit.

MR. STEWART: You have accepted my suggestion about non-residents, but would you also agree that these interest recipients do include Canadian Savings Bond owners, pension funds and insurance companies and similar institutions?

MR. JACKSON: They are included, but are they sufficiently part of the whole to undermine the validity of our general statement?

MR. STEWART: Well now, Mr. Jackson...

MR. JACKSON: The holdings in terms of working people with incomes of $6,000.00 a family unit.

MR. STEWART: Your basic point here is that the people who, perhaps, I might say you represent, the members of your particular Union...

MR. JACKSON: We go beyond that.

MR. STEWART: Are unlikely to be substantial recipients of interest.

MR. JACKSON: Not an important proportion of the total debt, I would say, yes, very small proportion. I would go further and say we are not arguing only for the 20,000 members of our union, but we are taking this position for the whole of the working people of the country.

THE CHAIRMAN: Might I ask if the wealthy are anyone earning more than $6,000.00?

MR. JACKSON: I wouldn't say any more than $6,000.00 We say $6,000.00 is the minimum income for the family unit.

THE CHAIRMAN: I am curious philosophically as to what you mean by wealthy. I find there are very few tremendous incomes in Canada as there are in the United States. Something like 500 people in Canada get about $100,000.00 a year and after taxes about half that. If you look up estate returns there are about 100 to 200 large estates a year. What are the "wealthy" people in the concept of this submission to us?

MR. JACKSON: Well, if you take a look at our table of taxation you will see the point at which we reach about 40 or 50%. I think that is a little better than $10,000.00, say we take that. It is a very difficult problem to define wealthy in a specific sense.

THE CHAIRMAN: The term is yours, sir.

MR. JACKSON: I know the term is ours and we are using it in a very general sense.

THE CHAIRMAN: You mean something about $10,000.00 a year and up?

MR. JACKSON: I would say something around that.

COMMISSIONER GRANT: I would like to make an observation. I don't think it is quite right to say that the industrial worker is not a purchaser of Government bonds. My experience is that he has supported issues of Government bonds both in wartime and peacetime very well through payroll deduction plans which can still be placed in operation, and I believe in some industries it still is. I think in the aggregate he is quite a large

purchaser.

MR. JACKSON: Let us say we assume you are right, Mr. Grant, we would argue that the proportion of the total interest we are speaking of that is represented by those working people would still be small. However, there is another point that one should note, among industrial workers buying savings bonds, they buy them, but if you will check the records you will find they hold them maybe one year or two years and dispose of them. They are not continuous holders in the majority of cases.

COMMISSIONER GRANT: They do serve a very good purpose for them, otherwise they wouldn't be in the market.

MR. JACKSON: I am not arguing the purpose or the affects, I am arguing it is not a sufficient proportion of the total interest debt we are speaking of to destroy our argument.

THE CHAIRMAN: Wouldn't you believe that a considerable proportion of Government bonds are in the hands of pension funds which are for the benefit of the non-wealthy?

MR. JACKSON: Pension funds are also for the benefit of the wealthy, are they not?

THE CHAIRMAN: Yes.

MR. JACKSON: They share equally both in the cost and benefit.

THE CHAIRMAN: There are more non-wealthy than wealthy.

MR. JACKSON: Numerically, yes, but in terms of what it represents in the total debt, no.

COMMISSIONER PERRY: I think for the record, Mr.

Stewart, we should say that the Commission has not been able to find any careful study of the distribution of holdings of bonds by income classes. I think this is the fact, no such study has been made. One can speculate about this, and speculate intelligently, but there are no figures to support it one way or the other.

MR. JACKSON: If you look at the budget of a family of $5,749.00 income, where is there any provision for substantial savings when they have to meet all the costs?

COMMISSIONER PERRY: I wasn't proposing to enter into an argument here. I was saying there are no facts available on this.

MR. JACKSON: Mr. Adams has a comment.

MR. ADAMS: If I might interject a statistic, there are some periodic studies, as you are probably aware, by the Bureau of Statistics on the holdings of liquid assets by income groups. In the 1958 study which is the latest one I have, for the families and unattached individuals whose major source of income is wages and salaries there is broken down all the liquid asset holdings, and the liquid assets include everything you can think of, including bonds. Approximately 50% of all the families, and they go up to $10,000.00 income, and they own either no liquid assets or under $250.00, so the implication there I think is pretty clear that the great majority of people whose main income comes from wages and salaries do not hold much in the way of bonds. They buy savings bonds this year, sell them and buy again next year, but at the time of this survey it showed that

half of the whole group, regardless of income level didn't have any more than $250.00 worth.

COMMISSIONER PERRY: My impression is that the Royal Commission on Banking, who are much more concerned about this than we are, felt these figures were not sufficiently adequate, and have made a more intensive study.

MR. ADAMS: It would be very helpful to have, because it is a rather blind spot in our economy.

COMMISSIONER BEAUVAIS: A great part of that interest is given back to the Government by way of income tax.

COMMISSIONER PERRY: That is another point. It is not tax-free income.

MR. STEWART: Mr. Chairman, I was proposing to pass on to part three, which commences on page 19, unless the Commission has questions.

THE CHAIRMAN: Thank you, Mr. Stewart, yes. We are getting into matters of sales tax in paragraph 25. I think Mr. Walls has got one or two questions on the subject of sales tax.

COMMISSIONER WALLS: Yes. Mr. Jackson, I would like to go to your paragraphs 25 to 31, and of course I must include your paragraphs 77 to 82, because they enlarge on the same subject. In paragraph 25 you talk of pyramiding and say since it involves the taxes on consumption it increases the regressiveness of these taxes. You further state that pyramiding is resented by all taxpayers. I have two short questions in regard to that. Is it not a fact that the general public have been less outspoken and

critical of the Federal sales tax than of any other tax?

MR. JACKSON: Because of its hidden nature, yes.

COMMISSIONER WALLS: You are stating here ...

MR. JACKSON: The concept is there in the mind of the individual whether he knows the specifics or not.

COMMISSIONER WALLS: You are saying it is resented. The point I was trying to bring out, whether it is hidden or not, it really has not been resented much up to now?

MR. JACKSON: That is a nice point. I would suggest among our people it is resented, not only in terms of this particular type of pyramiding.

COMMISSIONER WALLS: Would you not say that the regressive element of the Federal sales tax has mostly been offset by the exemptions on food, rent, and building materials on the purchase of homes. I notice one of the authorities you quote, Prof. Goffman, says much the same thing. He says:

> "While sales taxes usually exhibit a regressive tendency, the fact that necessities such as food, fuel and housing, among other things, are exempted tends to mitigate this. Total taxable consumption expenditures are in fact progressively distributed".

Do you agree with that?

MR. JACKSON: We agree in the first place the pyramiding of taxes still has many consumption things in it.

COMMISSIONER WALLS: I think the point brought up here, you are dealing with the emphasis this pyramiding

has and the regressiveness insofar as the low salary elements are concerned. Now, is it not to quite an extent mitigated by the type of exemptions we have under the Federal sales tax?

MR. JACKSON: I agree it is, only it is in just certain aspects of the consumer expenditures. It isn't on food, but it is on furnishings and hard goods.

COMMISSIONER WALLS: I want to deal a little more with that later. Also in paragraph 25 you use this example of the radio tube. Of course, you have used a product that not only carries sales tax, but also excise tax as well. You are dealing with a number of things that create the pyramid of price from $1.00 to $3.89. The total amount of sales tax and excise tax is 39 cents. There is, of course, the factor you use of customs tariffs. I would just like to get the reaction of a union organization such as yours to the customs tariff. In other words, do you people believe in the theory that the customs tariff encourages Canadian industry to the extent that it creates more jobs, and in turn creates a higher spending ability by working men?

MR. JACKSON: Our position has been presented to the Federal Government on more than one occasion in this regard. Our emphasis always is the need for development of secondary industry as the employment producing industry. Our position favours quotas rather than increased tariffs. We think that the same result can be achieved better through quotas than through customs.

COMMISSIONER WALLS: Of course, the United States use the quota method more than we do.

MR. JACKSON: We would even go so far as to say embargoes in certain instances.

COMMISSIONER WALLS: In paragraph 27 and also in paragraph 77 you recommend elimination of retail sales tax to stop this pyramiding. My question is although the retail sales tax is today only employed by eight provinces, surely the one factor that a retail sales tax has over the present Federal sales tax on the manufacturer's level is that it does not pyramid? I am rather at a loss as to why you state that retail tax is a pyramid tax, because retail tax is added after the last person who handles the goods has already placed a profit on it. You are not getting a profit on tax such as you are under the Federal sales tax.

MR. JACKSON: If there are any other taxes included in the manufacturer's price, obviously the sales tax at retail has been taxed.

COMMISSIONER WALLS: It is a tax untouched, so really it is not pyramiding.

MR. JACKSON: That is what we call a tax on a tax.

COMMISSIONER WALLS: That is right, but you say retail sales tax is pyramiding.

MR. JACKSON: We say retail tax coming on top of other taxes is pyramiding.

THE CHAIRMAN: Isn't this a matter of semantics as to what is pyramiding? My understanding of pyramiding is it is generally used to describe profit on taxes. When tax comes on at different levels and profit at different levels, not only does the consumer bear taxes, but also

additional profit which wouldn't be there if it weren't for the particular taxes.

D/MR/dpw

THE CHAIRMAN: You are using it differently, I think.

MR. JACKSON: Tax on tax.

THE CHAIRMAN: Is tax on tax properly used for that purpose? I have never seen a particular objection to a tax on tax. I have heard lots of people say it is bad, but why is it bad? If you put the two together you have simply got a higher tax rate. I cannot see why a tax on tax is particularly obnoxious.

MR. JACKSON: The individual sees it as an imposition because he says, "There is a tax already loaded on at one level and now another tax loaded on at another level. The tax is not being shown at its proper value.

COMMISSIONER WALLS: Supposing you had no previous sales tax, no manufacturers' sales tax; supposing you had a straight retail sales tax replacing that. There would be no question of pyramiding under your interpretation or under ours.

MR. JACKSON: Quite right. If there is no previous tax.

COMMISSIONER WALLS: Along that line you recommend the value-added tax as an advantage over federal sales tax and excise tax at the manufacturers' level. Where do you see this having any advantage over these federal taxes if these federal taxes were moved forward to the retail level?

MR. JACKSON: Mr. Adams did not get your question.

COMMISSIONER WALLS: What I said: in your brief you recommend the use of the value-added tax in preference

to a federal sales tax and excise tax. Now, let us say that we move the federal sales and excise tax forward and make it a retail tax instead of a manufacturer's tax. What advantage would a value-added tax have over that?

MR. ADAMS: I don't see any. The brief was not discussing that alternative.

COMMISSIONER WALLS: I appreciate that.

MR. ADAMS: My personal view would be I don't see any.

COMMISSIONER WALLS: Well, let's go back to the point that you were bringing out. Where do you see tha decided advantage over your value-added tax as against the existing federal sales tax?

MR. ADAMS: I think it was the French experience we were using as the custom there. It seems to us that did get away from the pyramiding of the kind that you are talking about.

COMMISSIONER WALLS: Well, of course, the French not carrying the tax forward to the retail level; only using it at the manufacturer's and wholesale level.

MR. ADAMS: That is my understanding.

THE CHAIRMAN: Might I inquire as to the merit that they see in the French system? My understanding of the French system, and I might say we are intrigued by the value-added tax which we have only heard about so far,is that the main purpose is to be able to assess the heavy consumption tax without pyramiding and at different levels. The French use it as, I think, a 25% tax. The consumption taxes in France are roughly 65% of their total tax take as against the reverse situation in Canada.

It seems to me, at the moment, to be an excellent instrument to extract a high consumption tax. I am curious why it would be in your brief because you do not, apparently, advocate high consumption taxes.

MR. ADAMS: If I may, I think we would agree with your position. The mention of the value-added tax was simply thrown out as the suggestion of an intermediate step of trying to get away from the kind of pyramiding that Commissioner Walls is talking about with the federal sales and excise taxes.

The position of the Union, generally, as the brief makes very clear, is to eventually eliminate consumption taxes, sales taxes, if possible.

THE CHAIRMAN: Thank you.

COMMISSIONER WALLS: My next question deals with paragraph 31. You refer to the sales tax and excise tax injecting elements of discrimination. For instance, you quote house furnishings for young couples on low income.

I have two questions dealing with this on which your advice would be of great assistance to the Commission.

What changes or additions would you recommend in the present list of exemptions on the federal sales tax without materially affecting the overall revenue from the tax?

For instance, we have had some members bring before us the necessity of it being extended to drugs. Have you any ideas, if sales taxes are continued, where this line of demarcation should come on exempt items?

MR. JACKSON: We have not attempted to tamper with the particular areas of incidence of the tax. We

talk about the elimination of sales taxes per se; at least of the federal sales tax and the reduction of sales taxes throughout the country to a 2% basis.

We have not attempted to just break down the list of goods to say whether there should be relief. We have proposed relief on all those things presently taxed.

COMMISSIONER WALLS: And you add house furnishings to it.

MR. JACKSON: We only used the question of house furnishings in its discriminatory aspect because young people with low income are paying proportionately, in terms of their income, a higher tax. They are paying a higher rate than a person with a high income for the same thing. We say it is discriminatory.

COMMISSIONER WALLS: You have no advice to give us as to the line of demarcation for taxable items?

MR. JACKSON: We would not get into that discussion.

COMMISSIONER WALLS: Perhaps with my next question I might be up against the same difficulty. Although, in paragraph 80, you recommend the elimination of certain excise taxes, then let us suppose that we adopt a graduated scale of sales taxes. Let us suppose that we combine excise taxes and sales taxes, because they are both similar taxes; you mention the fact that things like fur coats should be considered in terms of non-essential or luxury items. If you are going to set various rates on products and draw a line of demarcation between other non-essential or luxury products to carry higher taxes, where would you draw the line of demarcation as to what

constitutes a non-essential item?

MR. JACKSON: We are not proposing a higher tax on any one particular item or article. We are proposing the elimination and the reduction of taxes generally.

COMMISSIONER WALLS: You are recommending the continuation of excise taxes on certain items which have the effect of carrying a higher tax on some items than another.

MR. JACKSON: It is a matter of not recommending we leave it on certain items but taking it off certain items which have an impact on the low income family.

COMMISSIONER WALLS: I would imagine certain of the ladies in Winnipeg or Regina might question your decision that a fur coat was a luxury.

MR. JACKSON: I can find many individuals within the mass, yes, but that does not disprove the point.

THE CHAIRMAN: Surely Mr. Walls' question remains perfectly valid. If you are talking about taking them off rather than putting them on, where do you draw the line as to which ones you take off or leave on?

MR. JACKSON: We only mention the one specific case.

THE CHAIRMAN: You said except furs, I notice in here, and you also refer to "in some instances, in paragraph 31, so I have presumed you have something in mind. I think it is probably liquor and tobacco, but I am not quite sure.

COMMISSIONER WALLS: I just have one more question. I note that in paragraphs 79 and 80 you recommend reducing the provincial retail sales

tax by $200 million and the excise tax by $250 million yet you entirely ignore any reference to either reduction or increased use of federal sales tax, which brings in a revenue of about $800 million. Was there any reason why you make no reference to that?

MR. ADAMS: If I may attempt to answer Commissioner Walls, the thinking behind it was the Union's position is against taxation on consumption generally but you can't accomplish everything overnight. You start by reducing the tax at the retail level but I think somewhere in here there is the statement that the object should be for the consideration of getting rid of federal sales and excise taxes also.

It was not a question just of picking these two particular groups as being the answer and leaving the federal sales tax on, increasing it or doing something with it. The intention behind it is to get rid of it eventually,
2 but in the calculations as you see later on there is such a big question of indefiniteness in the way of revenue coming up from capital gains tax that the door was left open with that big question mark to carry it forward, to carry forward a tax program in the direction that the Union asks should be a proper consideration, of reducing consumption tax generally as revenue appears from capital gains taxes and other taxes.

COMMISSIONER WALLS: The possible answer could be that you can account for the $200 million of provincial sales tax and $250 million of excise taxes but it was rather difficult to be able to account for an alternative tax source to replace the $800 million of federal sales tax.

MR. ADAMS: Until you know more about the yield on the capital gains tax and those other taxes.

COMMISSIONER WALLS: The last question I have is: what is your reasoning, in paragraph 81, for advocating the status quo on the existing high excise duty and in one case, excise tax on liquor and cigarettes especially, when on page 13 you recognize that the average electrical worker spends 5% of his income on these products?

MR. ADAMS: I would not add anything more to the theory behind it than what I said in reply to your last question. It was not a singling of something out or protecting something. It was simply that we were looking at the tax policy and feeling our way along.

COMMISSIONER WALLS: Your paragraph intimates that you are going to leave these two taxes as is, doesn't it?

MR. JACKSON: For the time being.

COMMISSIONER WALLS: It doesn't say so.

MR. ADAMS: The rest of the brief, I think, does imply that.

COMMISSIONER WALLS: I just wondered whether you felt that it justified a continuation of the present taxes.

MR. JACKSON: In my opening remarks, Mr. Walls, I pointed out what we were looking to the future to bring: the complete elimination of all excise taxes and sales taxes at any level and to receive income through capital gains taxes applied on realized gains and undistributed profits.

MR. STEWART: For the purpose of the record, Mr. Chairman, I wonder if paragraph 101 of the brief, which

starts on page 54, is not one of the paragraphs, at any rate, of which these gentlemen are thinking?

THE CHAIRMAN: Yes, I would think so. Thank you.

MR. STEWART: Mr. Adams, would you confirm that at least one of those you had in mind was this paragraph?

MR. ADAMS: I am sorry, I did not get your question. I just turned up paragraph 101 as you were speaking.

MR. STEWART: Is that paragraph one of those to which you were referring? It appears to indicate that you anticipate that in due course the proceeds of the capital gains tax could be used to bring progressive reduction of indirect taxes.

MR. ADAMS: Yes, that was the thinking behind the answer I gave to Commissioner Walls.

COMMISSIONER WALLS: That is all, thank you.

THE CHAIRMAN: Before we move on, some of the rest of us may have questions on sales tax. I have one myself. I have been a little curious as to the reason why liquor and tobacco is traditionally picked out for very high taxation. Not that I am against it; I don't smoke, for one thing. Why should they be chosen? Have you any views on that?

MR. JACKSON: Probably the old blue sky law pervades in the country.

THE CHAIRMAN: One other thing is you are against sales taxes which are regressive ---

MR. JACKSON: On low-income families, because it has a heavy impact on low-income families.

THE CHAIRMAN: If a study convinced you that that was not the case your views would, presumably, alter?

MR. JACKSON: Presumably.

THE CHAIRMAN: If it were proportionate - if it affected large incomes in the same proportion as it affected small incomes would you then change your views?

MR. JACKSON: Our position still is that the impact of taxation on small incomes is a reduction of consumption demand and we look to the increase of consumption demand as a necessary ingredient in the economy for improved production demand and employment.

THE CHAIRMAN: Mr. Stewart, shall we move on from sales tax? I think this is a good time for a break. We cannot overlook our coffee. Would it suit you to break for ten minutes?

MR. JACKSON: At your pleasure, sir.

--- Short Recess

E/ET/dpw

THE CHAIRMAN: Mr. Stewart, are you ready?

MR. JACKSON: Mr. Chairman, may I introduce two additional members here today?

THE CHAIRMAN: By all means.

MR. JACKSON: Mr. Dobson, member of the National Executive Board, and Mr. Ball.

MR. STEWART: I think I would like to go, if I may, to page 23 of your submission where you begin to deal with the subject of expense account living. I think it might be as well for us to agree here on what we mean by that term. I wonder what you would think of this definition, that expense account living refers to the use of company funds not for the benefit of the company but for the benefit of employees of the company; does that contain the substance of it?

MR. JACKSON: I would think that is a broad definition in the sense that there are direct benefits to the employees at the expense of the company; expenses which otherwise normally should be not deducted.

MR. STEWART: I think we can probably agree to the extent that expense account living of that sort exists. There are two possible lines of attack. One is through the company and the other is through the employee.

MR. JACKSON: Through the employee; you mean on behalf of the Department of Revenue?

MR. STEWART: Yes. That being agreed, as far as the company is concerned, I suppose you would consider that senior management of any company, including its Board of Directors, would, if it were doing its job properly, attempt to eliminate expense account living of

this sort?

MR. JACKSON: Yes, I would think so if the interests of the corporation was the maximum efficiency of operation, meeting their obligations or seeing that their obligations or seeing that their employees meet their obligations tax-wise.

MR. STEWART: Then I suppose it would follow as far as tax legislation is concerned the important thing is that it should provide that any expense of this nature which is improperly incurred should be disallowed?

MR. JACKSON: Let's take the other side of the coin, Mr. Stewart. What is the approach of the Department of National Revenue to a working man? What expenses are allowed to him? A waitress in a restaurant is supposed to include as part of her income tips received. Now, if you begin to equate that to some of the expenses permitted - in fact, it is more or less a way of life - to executives, salesmen, and so on, of corporations, it is obviously an inequity there.

A person working in a lumber camp or any place where room and board is provided by the corporation, by the company, is supposed to include that as part of the income of the employee, so that there is a very rigid application or restriction on any of these expenses, if you will, for a working man but not for an executive or salesman. It is that aspect of discrimination that we are concerned with in part.

MR. STEWART: What I was trying to get you to agree to or disagree with at the moment was this: is it desirable that the tax legislation should provide that any

expenses of this nature should not be allowed as deductible expense to the corporation for tax purposes?

MR. JACKSON: It should be included as income to the Receiver.

MR. STEWART: Let us deal with the company first. Would you suggest ---

MR. JACKSON: Why does the company extend the expense account? In many cases, in order to avoid or to assist the recipient in getting around taxable income rather than giving it to him by an increase in salary. It is taxable immediately. It is given in these other forms in order to escape taxation. Therefore, the company has an obligation, a moral and a public obligation, which it is escaping by granting these expenses.

MR. STEWART: I do not think either you or I at the moment are advocating expense account living. All I am trying to get your answer to is this: looking at it from the point of view of the company, would you agree that the tax legislation should provide that any expense of this sort which is improperly incurred should be disallowed?

MR. JACKSON: Should be reported by the corporation if it does extend those types of expenses. That is all we are concerned about. If they want to disburse these emoluments, that they report it as such, and it is shown as income to the Receiver.

MR. STEWART: You are back again to the individual recipient. I am trying to avoid him.

MR. JACKSON: Taxes are collected from the individual.

MR. STEWART: Yes, but all I am asking you at the moment is this: suppose some expense of this sort is incurred by the company; I assume that you would agree that that should not be treated for tax purposes as an allowable expense in computing corporate income.

MR. JACKSON: You have to look at it in the overall in which we are approaching this question. Namely, we are moving in the direction of elimination of corporate income taxes, therefore it does not have too much effect whether they do as you say or not.

If there is no corporate tax, and if the tax is passed on to the ultimate recipient in realized gains, in whatever form you get them, if it is taxable and if the corporation reports all of these items as paid to the recipient and therefore is income, how the corporation handles its bookkeeping is not too important.

MR. STEWART: It may be some little time before we get to the time when corporation income taxes are eliminated. Do I take it, in the meantime, you regard it as immaterial as to whether these expenses are allowed or not, allowed for corporate tax purposes?

MR. JACKSON: We regard the obligation of a corporation to report - they make the decision as to whether they want to pay it or not, but they should report it.

MR. STEWART: So that you are really concerned only about the effect of this on the employee?

MR. JACKSON: The effect on the employee; we are presenting a view as to a direction. That direction is to eliminate corporate income tax. To tax instead the

recipient of the benefits of the corporation. The interim.

We have not entered into discussion on the interim other than a stage or phase of reduction of certain types of taxes.

As far as corporation income tax is concerned, we point out that these expenses that are permitted are done by the corporation on behalf of the employee to aid the employee to escape taxation. Therefore, there is an obligation on the corporation to report these items as income. The effect of their considering them as expenses, reducing the taxable income, is not a vital question as far as we are concerned.

MR. STEWART: If I might refer you to page 51 of your brief, Mr. Jackson, and to the sentence beginning at the bottom of that page: "The only allowable company-paid personal expenses should be those directly connected with producing company revenue and fully supported by valid receipts."

You agree, I take it, with that sentence?

MR. JACKSON: Yes. You are arguing the interim; we are arguing the ultimate.

MR. STEWART: In other words, you would prefer not to enter into a discussion on the interim situation at this point?

MR. JACKSON: Other than the one point we make.

THE CHAIRMAN: Before you move away from that point, Mr. Stewart ---

MR. STEWART: I am not moving away.

THE CHAIRMAN: I just want to get in my two-cents' worth.

MR. JACKSON: Let us correct the record there. We have proposed that the companies report as income to the employee all such expenses and remunerations. We feel if that is done the other aspect is not as vital at this stage.

MR. STEWART: I appreciate that. Let us move on to the position of the employee. You consider that the employee should be taxed on any benefit of this nature that he receives? Is that correct? I want to make sure that the reporter gets your answer.

MR. JACKSON: Let us put it down and we will see where we go from there.

MR. STEWART: So far you agree with it?

MR. JACKSON: Let us see the next question.

MR. STEWART: I don't think I can proceed that way, Mr. Jackson. This seems to me a perfectly simple question. I am asking you if you agree that an employee should be taxed on benefits of this nature.

MR. JACKSON: That is our proposition; that the employee, in terms of the type of expenses we are speaking about, receives that as income and shows it as income.

MR. STEWART: And be taxed on it?

MR. JACKSON: And be taxed on it.

2 MR. STEWART: I want to refer you to Section 5 of the Income Tax Act because that section provides among other things that when you consider what is income of an employee for a taxation year you take into account his salary, wages and other remunerations including, and I am skipping some words here, but I think I am

adhering to the sense of the original, including the value of other benefits of any kind whatsoever.

Now, I suggest to you that if corporate funds are improperly diverted now for the benefit of employees these diversions representing what you call or what we have agreed to call for the moment expense account living, then under the Act as it now stands the value of these benefits will constitute income of the employee.

MR. JACKSON: We are arguing equity here, Mr. Stewart, in terms of a worker. The laws that apply to him should apply on the same degree and to the fullest extent and to the same full extent to a person who is receiving remuneration as an employee in a different category.

MR. STEWART: I should be surprised if anybody would disagree with that proposition.

MR. JACKSON: Therefore, if the tax laws at the present time do not permit a production employee to include certain expenses as deductible, they should not for another employee in a different category.

MR. STEWART: Yes, I think this is probably acceptable to every fair-thinking person. There should not be different rules for different types of people.

MR. JACKSON: But we know there is a difference today.

MR. STEWART: I am going to suggest to you ---

MR. JACKSON: In practice.

MR. STEWART: --- that our problem here is really not one of the present provisions of the tax law but a problem of enforcement.

MR. JACKSON: I don't know the tax laws that exactly, Mr. Stewart, but I would say in a large measure it is a matter of application.

MR. STEWART: I wonder if you would be prepared to comment on this: as you may know, in the last couple of years, the United States has introduced some very detailed rules as to what business expenses of this nature are permissible and what are not. In this country, the legislation at the moment, at any rate, does not contain detailed rules. It sets out on this particular point general principles.

Have you any comments as to the relative merits of general principles or detailed rules in this connection?

MR. JACKSON: Are you referring to the American approach?

MR. STEWART: No, I am asking you whether you have considered this because this is a problem this Commission is going to have to face. If the Commission is considering the Canadian problem do you think that it should attempt to deal with this on the basis of general principles or on the basis of detailed rules?

MR. JACKSON: I would say detailed rules, and much further than the final bill in the United States went.

MR. STEWART: It has been suggested in other evidence that has been given at these hearings that this problem of expense account living is accentuated by high tax rates. In that connection the evidence has related to both corporate tax rates and individual tax rates.

Now, my first question would be this: those who have referred to the effect of the high corporate tax rate

have said that if expense account living does exist, it exists in part because the companies concerned or the people who make the decisions in the companies are influenced by the fact that roughly one-half of the expense involved is borne by the Government. As far as you are concerned, do you regard this as one of these interim situations that you would prefer not to deal with?

MR. JACKSON: You are raising a number of questions. Number one, corporate tax, as far as we are concerned, is passed on completely to the consumer. Not paid by the corporation. Number two, if the rules are there, why should a corporation, merely because the tax rate for certain income is higher than the corporation likes, why should it have a right to get around the rules?

MR. STEWART: I am not suggesting that it should.

MR. JACKSON: You are suggesting the reason for the exorbitant expense allowances is because a corporation has looked at the tax impact on that employee, and it decided rather than have that person receive that as income and pay a heavy tax rate they will find some other way of getting it to him that is not subject to tax, yet they are violating the principle you yourself enunciated.

MR. STEWART: Once again, you are switching from the effect of the corporate rate to the effect of the individual rate. This time I will switch with you.

MR. JACKSON: You speak about the 50% impact.

MR. STEWART: That is right; which is the corporate rate. You are talking about the fact that this may happen because the individual ----

MR. JACKSON: Let me get it clear. Are you

arguing that the cause of the reason for the expense living is because of the high corporate tax rate or of the high tax rate on the income of the recipient?

MR. STEWART: What I was putting to you is this: it has been suggested that some companies may be careless of permitting this type of expenditure because they feel that half of the expenditure is really being borne by the government.

MR. JACKSON: That does not go quite along the line of our argumentation. Our argumentation; the price which determines the income is established on the basis of after-tax returns. Therefore, the question of what they escape in terms of government taxation is already built into the price.

MR. STEWART: I think perhaps we are not seeing eye to eye on this one, Mr. Jackson. I am not sure I succeeded in making my point.

/F/PB/ss

MR. STEWART: Let us switch then to this question of the effect of progressive tax rates. It has also been suggested to the Commission that when progressive individual rates are as high as they are, and as steeply graduated as they are, there is a temptation to executives, and to companies to permit some element of expense account living. Would you consider that this type of thing might be reduced if the progressive individual rates were decreased?

MR. JACKSON: No. I wouldn't accept that argument. The question of the making of the rate on the recipient of income is always proportionate and tax law is such while the worker might want to escape it because of the impact on him, as we say 26 or 27% impact on taxation income, the law doesn't provide any way he can escape. Why shouldn't the law be as rigidly applied for the expense account living individual as applied to the working man? I don't think the rates have any bearing on the question.

MR. STEWART: Let us come to some of the benefits which are available to all employees.

MR. JACKSON: Yes.

MR. STEWART: Do you consider that items of this nature should be included in income for tax purposes, company-paid portions of contributions to pension plans, company payments into group insurance plans or into medical plans or company contributions for unemployment insurance purposes?

MR. JACKSON: All of these --- are you finished?

MR. STEWART: That is the question.

MR. JACKSON: Again we have to look at the question of equity and the effect of the tax laws on the worker, and on the non-worker on the expense account. We say there should be the same application for both items, whether or not these types of expenses or expenditures are considered. If they are for the working man, they should be in the same proportion to the other non-productive worker.

MR. STEWART: If we are thinking of contributions to pension plans, for example, what you are saying is if the company contribution for one employee is brought into the income for tax purposes the company contribution for all purposes should be brought in?

MR. JACKSON: We would agree, but there are certain relationships in the amount the company can deduct to the income of the individual who is being deducted, I would say.

MR. STEWART: I am not sure I am with you. Suppose the company contribution is 5% of wages or salary, then each employee brings in that particular 5%.

MR. JACKSON: If the percentage application is made on both, we have no quarrel.

MR. STEWART: If we come to such matters as company-subsidized cafeterias and employees magazines, do they constitute benefits which you think should be brought into income for tax purposes?

MR. JACKSON: We don't consider any company magazine a benefit to the workers.

MR. STEWART: Let me confine my question then to the question of the cafeteria.

MR. JACKSON: That is a grey area.

MR. STEWART: Pardon?

MR. JACKSON: That is a grey area.

MR. STEWART: That is a grey area?

MR. JACKSON: In terms of benefit. Some employees will tell you the cafeteria is something they should shun, not use.

MR. STEWART: If there is company subsidization, would you agree this is a benefit to employees?

MR. JACKSON: Oh, in a general sense we could probably say yes.

MR. STEWART: Thank you.

MR. JACKSON: I think what you are trying to do is take me through a company balance sheet, and quite frankly it is not an area in which we are frankly interested.

MR. STEWART: If I were capable of taking you through a company balance sheet, I might attempt it.

MR. JACKSON: We have some rather strong views on the question.

MR. STEWART: In the portion of the brief which deals with this particular matter, you quote a number of newspaper articles and one article in the April 1962 Canadian Chartered Accountant.

MR. JACKSON: What page are we at, Mr. Stewart?

MR. STEWART: The article in the Canadian Chartered Accountant appears at page 25 in paragraph 40. I think part of our problem here may be to determine to what extent this expense account living does exist in Canada. Perhaps before dealing with that article I should go on and refer to paragraph 41. There you suggest that

the amount involved in Canada might be approximately $5,000,000.00. I think you will agree, however, that this is based entirely on U.S. studies.

MR. JACKSON: There are no accurate figures available, that is true.

MR. STEWART: Now, going back then to Paragraph 40, I would like to read you the last few sentences of the article from which you quote. They read this way:

> "If, in fact, a significant number of taxpayers are abusing the provisions of the Income Tax Act, and this is not yet apparent to the public, would not the disclosure of the extent of this practice serve as a lead to those many individuals who are somewhat confused as to what constitutes executive compensation and wish to abide by the spirit of the law? Would not such disclosure also serve as a deterrent for those few individuals who knowingly and wilfully evade their lawful tax? On this subject, the income tax authorities have a responsibility to clarify the ground rules for the tax-paying public".

Have you any comment on that quotation?

MR. JACKSON: The last part, I would say definitely there is a responsibility. This would be an area in which this Commission could actually do a great deal. I think we have enough evidence in terms of using our neighbour to the South of the fact that the corporate living, as we call it, or expense-account living as you call it, does constitute a very substantial evasion of tax.

MR. STEWART: My thought was in the concluding words of that article which I have just read the author made the suggestion, in fact, there may be very few cases in Canada.

MR. JACKSON: I wouldn't agree with him on the very few cases.

MR. STEWART: I ask you this, I don't suggest for one moment that the question may be material for the purposes of your union, but do you unions in addition to corporations have this type of problem?

MR. JACKSON: I would say some unions, yes, not ours.

MR. STEWART: To the extent it does exist in unions you would suggest the same remedy?

MR. JACKSON: I wouldn't try to draw any distinction.

MR. STEWART: Let us go on to paragraph 24 where you deal with the contributions to pension funds. You refer there to the fact deductions from income in relation to pension fund contributions have a different effect tax-wise, because different employees are subject to tax at different levels. You would agree, however, that when the pensions are actually received by particular employees they again are subject to tax at different levels depending on the aggregate incomes of the pensioners concerned.

MR. JACKSON: At the time of receiving it.

COMMISSIONER PERRY: Wouldn't you agree one way would be to tax the worker at 45%?

MR. JACKSON: We take the position...

COMMISSIONER PERRY: Don't take that seriously. It is a facetious remark. In fact, the benefit is just a

reflection of the initial additional burden.

MR. JACKSON: I was through you going to answer Mr. Stewart. We take the same position, as a matter of fact on the question of many exemptions, that the impact is greater, the benefit is greater on exemptions on a higher income than on a lower income.

MR. STEWART: When you have progressive rate structure...

THE CHAIRMAN: The benefit is greater, but also at the same time they are paying a higher tax. It would seem to me you can't isolate one from the other.

COMMISSIONER PERRY: The benefit is greater because the burden is greater in the first place.

THE CHAIRMAN: I have heard this argument advanced. It is the most fallacious one that I can conceive of. If the relief is greater it is only because the burden is greater.

MR. JACKSON: It depends whether it moves them down into another bracket. If it does, there is a benefit to the higher income recipient.

MR. STEWART: Mr. Jackson, I will go on, if I may, to page 27 of your submission?

THE CHAIRMAN: Are you moving away from expense accounts?

MR. STEWART: Yes.

THE CHAIRMAN: I would like to make one remark on the subject of expense-account living and the experience the Commission has. When I am out of town I live on a Government expense account. If you gentlemen think we should be taxable you don't know anything about Government

expense accounts. Furthermore, as a practising chartered accountant I agree with you gentlemen there is a certain pushing of expense account living beyond what I think is proper and fair. There are many companies that resist this and resist this very strenuously. I know lots of them. They believe that the right to get free living from a company without paying taxes is actually destroying the very fabric of the company. They resist it. I have no idea of the accuracy of the $500,000,000.00. I am in no position to dispute it. All I can say I very much doubt it. I think it is an extremely difficult figure to make inquiries about. I agree, Mr. Jackson, it would be desirable for the Commission to try and find something out and certainly we will do what we are able to do. I will be very surprised if we are going to come up with anything positive. I don't think it is possible to do so.

MR. JACKSON: The thought crossed my mind when you were speaking about the Government expense accounts that I heard of a person who was operating full time on a Government expense account and charged 386 days in the year.

THE CHAIRMAN: Would you give me his name and address.

MR. JACKSON: I don't know who the gentleman was.

COMMISSIONER PERRY: Better still, tell us how he did it.

MR. STEWART: Moving on to page 27, you deal there with the question of capital gains and you make it quite plain at a later stage of the brief, and I refer in

particular to paragraphs 96 and 99 that you consider that both corporations and individuals in Canada should be subject to taxation on realized capital gains?

For the reporter, the answer is yes?

MR. JACKSON: Yes.

MR. STEWART: In support of your proposition you quote in paragraph 49 an extract from the memorandum of dissent to the report of the United Kingdom Royal Commission on Taxation. That report was issued in 1955. I take it, Mr. Jackson, you were aware that the majority of the Commission carefully considered this whole question of capital gains taxation for the United Kingdom and concluded such taxation was undesirable?

MR. JACKSON: Yes. This is the minority report.

MR. STEWART: As you have included the extract in question from the minority report in your written submission, I would like to read into the record from page 37 of the majority report, paragraph 108:

> "We do not recommend, therefore, that capital gains should be brought under a general charge to income tax or surtax as constituting income, nor do we recommend the introduction of any supplementary scheme for charging them or some of them to a flat rate tax as constituting a special category of income".

In your particular case, I take it that the tax you advocate is not a flat rate tax on capital gains, but an inclusion in ordinary income of what we now call capital gains.

MR. JACKSON: Right.

MR. STEWART: Your recommendation to the Commission that such a tax be imposed again would be based on what you refer to as equitable considerations.

MR. JACKSON: Right.

MR. STEW ART: I suggest to you, Mr. Jackson, that when we consider any new tax we have to consider not only equity, but a good many other considerations such as the effect of the particular tax on the economy, the amount of revenue it is likely to produce; whether or not it is going to add materially to the complexity of our law; whether it is going to add to the administrative difficulties and so on. Would you agree that these other factors will have to be taken into account by the Commission as well?

MR. JACKSON: We would agree that it adds, possibly,to the administrative problems. We don't think that that would act adversely to the development of the economy.

MR. STEWART: Have you any ideas as to the amount of revenue that might be produced?

MR. JACKSON: We haven't been able to come up with a figure.

MR. STEWART: Then you have a section beginning on page 28 which deals with "stock market appreciation", which I don't propose to go into at any length. I would like to ask this very general question. What would your reaction be to this, that somehow or another through our fiscal system we must encourage both corporations and individuals to save and risk their savings as equity investments?

MR. JACKSON: We don't see the result of the application of our proposals as changing that situation detrimentally, in a negative way. The means are still in the country. The funds are still going to be there, depending on the kind of regulation we have in the country as to funds leaving the country. Therefore, they are going to find a use. They don't just sit there.

MR. STEWART: I will come back to that point again when we come to consider your suggestions as to the progressive rates on individual tax. You then go on to deal ...

COMMISSIONER GRANT: Mr. Stewart, I hesitate to interrupt you. Would you rather I didn't go into this now? I have a question arising out of paragraph 51 that I would like to discuss with Mr. Jackson. Is that all right by you?

G/MR/dpw

MR. STEWART: Please.

COMMISSIONER GRANT: Mr. Jackson, I find it difficult to understand or to reconcile the figures that you are using in connection with the split of the C.G.E. shares there. Perhaps you could clarify it for me.

You say that in 1952 there were 188,845 common shares outstanding and they were priced at that time at $415 a share. They were split and the split resulted in the shares being quoted at around $33.

Now, would you indicate to me - that was about 15 to 1 split.

MR. STEWART: Excuse me, Mr.Grant, I can give you an answer to that. The split was 40 to 1 and it occurred in 1962.

COMMISSIONER GRANT: Forty to one?

MR. STEWART: Yes.

COMMISSIONER GRANT: That would account, then, for it. The price of the stock, if it were split 40 to 1 and the price of the stock must have come on the market at $10 a share.

MR. STEWART: What happened, Mr. Grant, if I understand the situation correctly, is that on the 40 to 1 split, which occurred in 1962, the 188,845 shares which had been outstanding became, of course, forty times that number and, in fact, if you multiply 188,845 by 40 you come to within a few hundred shares of the figure which appears on the top of page 29.

My calculation would indicate that the number of shares of Canadian General Electric which were actually issued, the number of new shares that were issued during

that ten-year period, eleven-year period, must have been very small.

COMMISSIONER GRANT: After they split you had 7,555,000 shares issued and outstanding.

MR. STEWART: Yes.

COMMISSIONER GRANT: And those shares, if they were split on a 40 to 1 basis, then that was on a basis of issuing those new shares for a value of $10 a share.

MR. STEWART: Well, if you take the 1952 price and divide that by 40 ---

COMMISSIONER GRANT: Of course, it was ten years later, I see.

MR. JACKSON: The General Electric stock went up to about $1,500 before the split.

MR. STEWART: Before the split. A good deal of the rise occurred shortly before the split.

MR. JACKSON: I am not sure.

MR. STEWART: I think that I would like to refer to one other question arising out of paragraph 51, which paragraph Mr. Grant has just mentioned. You make the statement there, at the end of paragraph 51 - this is the statement which you made earlier in your testimony today that the corporate tax on profits is passed on in prices. You made it plain that you considered this to be true on corporate income taxes generally and you refer elsewhere in your brief as authority for that proposition - I am thinking of Appendix D - to a work by Dr. Goffman.

I have looked at that work of Dr. Goffman and his conclusion appears to be that in Canada approximately 45% of the corporate income tax is passed on to consumers

and labour and that the remaining 55% is borne by capital.

MR. JACKSON: There are other authorities who have spoken out on the question of how pricing is determined in this country.

MR. STEWART: Yes.

MR. JACKSON: And there is more than one authority that has set out that pricing is on the basis of not cost plus but rather return minus cost.

We can give you a couple of quotes on it. They have, in Appendix B, a couple of recent ones. For instance, the Chamber of Commerce in Canadian Business for April 1963 - no; the Globe and Mail, December 18th, 1962, dealing with the oil industry, summed it up this way "Attempting to sum up the change in marketing philosophy," this is speaking about the oil business today, "a senior executive of a leading oil company said in a private conversation that the change is from cost plus pricing to price minus cost and there seems to be growing evidence that this is the way in which prices are established."

You already take into account the fact of corporate taxes being paid out.

MR. STEWART: I am not sure that that quotation you just read really supports the conclusion you draw from it, but that is by the way. You have referred to Mr. Goffman's study, and you also, I think, referred in Appendix D to the fact that Dr. Eaton suggested some little time ago that the corporate tax is mainly passed on to consumers in the form of higher prices.

I have here an article which has recently been

published in the United States on this same question. It is published in the Journal of Political Economy for June 1962. It is entitled "The Incidence of the Corporation Income Tax" and it is written by a Mr. Arnold C. Harberger of the University of Chicago. His conclusion, which appears on page 236, is this - I would like to read the concluding paragraph of his article to you:

> "I conclude from this exercise that even allowing for a rather substantial effect of the corporation income tax on the rate of saving leads to only a minor modification of my overall conclusion that capital probably bears close to the full burden of the tax. The savings effect here considered might well outweigh the presumption that capital bears more than the full burden of the tax, but it surely is not sufficiently large to give support to the frequently heard allegations that large fractions of the corporation income tax burden fall on labourers or consumers or both."

That is the end of the quotation. I am not in any sense asking you to agree with Mr. Harberger's conclusion. I do point out to you that we have at least three authorities here, one of which says that the tax is borne almost entirely by capital - that is Mr. Harberger. Another, Mr. Goffman, says it is borne more or less 50/50 and says that actually he thinks 45% is passed on in Canada.

Then we have Dr. Eaton expressing the other view that the whole of the tax is probably passed on.

Now, would you agree that it is in fact an extremely difficult thing to determine the extent to which this tax is passed on?

MR. JACKSON: I would suggest, Mr. Stewart, that there is hardly a question on which one may not find authorities on both sides. One has to look at the preponderance of authorities on one side or the other. You have quoted two. We have quoted two. We can quote far more in favour of our side.

MR. STEWART: I am not suggesting ----

MR. JACKSON: If it is a battle of the experts we are engaged in here, we will have to marshal them for the benefit of ourselves and the Commission.

MR. STEWART: I am prepared to leave it on that basis, that it is a matter of experts of which I do not profess to be one. I do stress the fact that so far as the Commission is concerned at the moment it seems extremely difficult to conclude that either, or any of these views is necessarily correct.

MR. JACKSON: Fortune Magazine of April 1963 had quite an article on this question. I don't know whether you read it. They came out on our side of the question.

MR. STEWART: I don't think I have read it, but I am sure that the Commission will be interested in looking at it.

THE CHAIRMAN: Mr. Stewart, I have read it. I think all the Commissioners have read it.

MR. JACKSON: The recent edition, I have forgotten the date, of Lloyd's Review also had an article

on this very same question.

THE CHAIRMAN: They have quoted Mr. Capon of Montreal who appeared before the Commission and during Mr. Capon's discussions before the Commission he referred to the fact that many prices could not be adjusted for corporate taxes and in this regard drew attention to the price of commodities sold on the world market, such as our natural resources, and in those caseshe indicated that he did not believe that an increased or diminished tax would be very quickly reflected in those commodities.

MR. JACKSON: Of course, in the export market you are up against conditions, a number of conditions, which make it impossible to determine what has been set aside and what has been included in that price, so that it does not necessarily argue that the corporate taxation has not been included in the price that they start from as one that they would like to realize.

In terms of the problems in the export market, I don't think you can argue because the export prices are at a certain level; the corporate tax has not been
2 included.

THE CHAIRMAN: That is not what I was trying to say, Mr. Jackson. If there were changes in the corporate tax, it would not be too readily reflected in those commodities sold on the export market.

MR. JACKSON: I would agree with you.

MR. STEWART: I would like to skip over to page 30 where you deal with the question of rights to purchase shares of companies and I am going to ask you to comment on this proposition. Let us suppose that a particular

company which has, let us say, 100,000 shares outstanding decides to issue rights on a one-for-ten basis so that it will, in effect, be offering to its shareholders an additional 10% of the company's stock.

Now, let us suppose that you are a shareholder of this company and we will assume that you hold 1% of the stock. I suggest that when you receive this offer of rights your alternatives are these: first of all, you can exercise your rights, and if you do, when the smoke clears away, you have retained your 1% interest in the company.

Alternatively, you can dispose of your rights and if you do that, then when the smoke clears away, you have less than a 1% interest in your company.

Now, I would just like to pause there and make sure you are with me so far.

MR. ADAMS: I am with you so far.

MR. STEWART: Very well, Mr. Adams, you and I can discuss Mr. Jackson's position a little further.

If he does exercise his rights, he retains a 1% interest in the company. He has a slightly larger number of shares but if the rights have been issued for less than the shares were worth prior to the issue, then the value of the shares he has after the issue, per share, will naturally have decreased.

MR. ADAMS: I am sorry. You have lost me now.

MR. STEWART: I realize that this is a, perhaps, difficult thing to put clearly in a conversation of this nature but let us suppose that Mr. Jackson had 1% of this company with 100,000 shares outstanding.

MR. JACKSON: You will sign them over to me tomorrow.

MR. STEWART: This is entirely a hypothetical company. He starts off with 1,000 shares, being 1% of 100,000. I have suggested that there would be a 10% rights issued so that if he exercises his rights, he would end up with 1,100 shares.

Now, let us proceed on the assumption that when the rights issue was made, each of his shares was worth $1 and that his new shares, which would be 100 in number, were acquired for, let us say, 60 cents a share. Now, I suggest to you that the 1,100 shares which he ends up with would be worth less than $1 per share.

MR. ADAMS: I don't think you can argue that without bringing the question of the market in. He is at the point at which he got the rights; he got something for 60 cents that has a value placed on it in the market of $1.

MR. STEWART: If it does have a value placed on it.

MR. ADAMS: That was your assumption to start with.

MR. STEWART: No. I deliberately stayed away from market. I was talking about value.

H/EMT/ss

MR. ADAMS: What do you mean by value then, I am thinking of market value.

MR. STEWART: If you take the market value, we would again have to make certain assumptions as to price which is really almost impossible to make satisfactorily.

MR. ADAMS: That is the fact of life, that in the issue of rights he gets something worth more than he has to pay for it, and he then has a value transferred to him from the company which is untaxable, and this is the point of the illustration here; simply that this is one thing that might be looked at by the Commission as a place to get some more tax revenue.

MR. STEWART: In any event, Mr. Jackson has still a 1% interest in the company.

MR. ADAMS: Yes, but we are not talking percentages. We are talking of real values.

MR. STEWART: Regardless of that.

MR. ADAMS: You can't disregard it. That is a fact of life. Market has placed a value on what he gets above what he has to pay for it. Therefore there is the value transferred to him which is a free gift, and he is not paying any taxes on it.

MR. STEWART: What you are suggesting is if the market place does place a higher value of 1% after the right is issued than before, then he has achieved a benefit?

MR. ADAMS: The fact that the rights have a market value before they are exercised I think illustrates our point. He can sell the rights.

MR. STEWART: Let us go to the question of sale

of rights in the example you give at the top of page 31. You are referring to a particular rights issue, and you said the stockholders are given the right to subscribe for one additional share at $39.00 for each twelve shares.

You then say a couple of sentences later on that each right was immediately worth $9.00. I suggest to you that what you mean is each twelve rights was then worth $9.00, because you had to have twelve rights before you could subscribe.

MR. ADAMS: Yes, you are correct. It should be one share instead of one right.

MR. STEWART: So that each individual right would sell or might be worth one-twelfth of $9.00 or 75 cents per right.

MR. ADAMS: I take back my agreement with you. I think I am right. The right was worth $9.00, not one-twelfth of $9.00, because the right you got for holding twelve shares ---- that is correct --- but the right was a right to purchase a share, and that share was selling on the market for $48.00, but you only paid $39.00 for it if you exercised your right so that the value of the right was $9.00.

MR. STEWART: But you had to have twelve shares before you got that right.

MR. ADAMS: That is correct, but the right was worth $9.00. I am sorry I slipped on agreeing with you earlier.

MR. STEWART: Well, with deference, Mr. Adams, I think you were right the first time. What happens is if

you hold one share you get one right.

MR. ADAMS: No. You hold twelve shares and you get one right.

MR. STEWART: But what the companies do, they issue one right per share.

MR. ADAMS: No, no. I am sorry. I am sure the gentlemen on the Commission are more expert on this than I am, but certainly that is my understanding. When Bell came out with this particular proposition, if I were a shareholder and held twelve shares I got one right.

MR. STEWART: I suggest to you ---

MR. ADAMS: And this was worth $9.00.

MR. STEWART: If you held twelve shares you got a warrant.

MR. ADAMS: Which entitled you to buy one new share.

MR. STEWART: Which said you have twelve rights.

COMMISSIONER GRANT: I am afraid I must disagree with you on this. I was interested in this, and I remember the issue, and so this morning before we went into session I did check with one of the leading investment dealers in the city here as to what the situation actually was. I was advised that they did issue rights on the basis of one right per share, and that it did take twelve rights to buy a new share at $39.00, but the rights actually varied in price between a low of fifty cents and a high of $1.00 from the time that they were issued until the rights expired.

THE CHAIRMAN: I must confess there has been a disagreement here, and I cannot dispute this evidence which

you have just received. However, like yourself I feel English demands that a right must be a right to purchase a share. I do not see how it could be a right to purchase a twelfth of a share and I do not see how it could be a right to purchase anything except a share. What I am assuming is that the financial community has got the thing balled up as far as English is concerned, and I must go look and see.

MR. ADAMS: I should perhaps have said that the information contained in paragraph 55 I took from the Financial Post corporation records, and it made sense to me when I took it, and I must say I must stand corrected by the Commissioner's information, but I do not think it makes any essential difference to the illustration whatever whether you call something, a twelfth of a share, a right, or whether you call something that you got for holding twelve shares a right. Whatever it was you got was worth $9.00 more than you paid for that unit, define the unit as you like, and it was tax free.

MR. STEWART: Let me come to that. Let us now consider the case where Mr. Jackson decides not to exercise his rights and increase his investment in the company and he decides he will sell his rights, and in respect of the thousand shares which he is assumed to have had --- we were dealing, you will recall, with one for ten basis ---

MR. ADAMS: One for twelve.

MR. STEWART: He would receive or he would have available for sale the right to acquire 100 shares in the company, and let us suppose quite arbitrarily that he succeeded in selling the right which was issued to him for

$1,000.00. He has received $1,000.00 but I take it that his interest in the company has decreased.

MR. ADAMS: Percentage-wise, but not dollar-wise.

MR. STEWART: It has decreased percentage-wise. He does not have as high a percentage of the equity of the company as he had before.

MR. ADAMS: Agreed.

MR. STEWART: So that what he receives for these rights is compensation for his loss of equity.

MR. ADAMS: No, I do not agree with that, because under the example as you were using the figures to begin with, the share as I understood it after our discussion, whether we were talking market value or book value, as I understood it the share was worth $1.00 and the right gave you the privilege of buying a new share for sixty cents, which meant at that point the right had a value of forty cents.

Now, he was not selling a piece of the corporation that he held. He was selling something that was a piece of paper that the corporation gave him, and because of the terms of it it was worth forty cents.

MR. STEWART: In any event, having sold it, he does have a smaller percentage of the equity.

MR. ADAMS: He has a smaller percentage, but he has not decreased his dollar participation.

COMMISSIONER GRANT: The right could not be worth forty cents. It would be worth four cents as I see it, because it took ten rights to buy a share, and that is the same error that comes into paragraph 55 if I may

express it as such. That is, the gain to the stockholders, instead of being eighteen, should be eighteen million divided by twelve which would be one million, six, because it took, in the example in paragraph 55, twelve rights to buy a share. If twelve rights are worth $9.00, one right would be worth something like eighty cents.

MR. ADAMS: Regardless, I think there is not any particular purpose of pursuing this semantic argument very far, but the fact is 2,000 shares were taken out.

COMMISSIONER GRANT: 2,000,000.

MR. ADAMS: 2,000,000 shares were taken up so you can define the right your way or my way and you are left with the fact that 2,000 shares were taken up and each share was taken up with the benefit of $9.00 per share to the holder.

THE CHAIRMAN: Might I interject it does not matter very much about the taxability. This is perfectly consistent with the recommendation that capital gains be taxed. If capital gains are to be taxed, I would have thought there is apparently a realization to be included in income.

MR. STEWART: I am sure this has been supported eloquently at the moment, but I would like to go on.

COMMISSIONER GRANT: I would like to say this: When Mr. Adams said 2,000,000 shares were taken up, there again is where the inaccuracy comes in. I assume that the total issued capital stock was 2,000,000.

MR. ADAMS: No, no. Bell's issued stock, I do not remember what it is, but it is very much more than that.

COMMISSIONER GRANT: I grant you that it is, but

in this particular instance ---

MR. ADAMS: On the previous page, Mr. Commissioner, there was a list of the shares that were taken up as a result of the issue of rights over a period of years, from one and a quarter million to two million shares each time they do it.

COMMISSIONER GRANT: Yes. I beg your pardon. It is 2,000,000 on that particular rights issue.

MR. STEWART: Now, Mr.Jackson, if we can move on to page 32, you deal there with the question of capital cost allowances, and I would like to ask you a few questions on that subject. It is quite clear from the submission that you are suggesting that we revert in Canada to the old system of straight-line depreciation for tax purposes.

Under that system I think it is clear that what happened was the cost of the particular asset was amortized over its anticipated useful life, and that cost was treated as an expense for tax purposes. Under the capital cost allowance system which is now in effect it is simply cost which can be claimed for tax purposes so that the total charge to income in respect of depreciable assets is not increased.

I suggest to you that the only real difference between the two systems is that under the present capital cost allowance system the amount which can be taken for tax purposes in the years immediately following acquisition is increased. Later on the proportion of cost which can be taken for tax purposes in a particular year is less than under the straight-line system.Do you agree with that?

MR. JACKSON: Yes.

MR. STEWART: It has been suggested to the Commission that the capital cost allowance system which does provide these larger allowances in the early years provides an incentive to industry, that it encourages new capital investment and that it may therefore lead to increased efficiency of industry and to expansion of industry. Have you any comments on that?

MR. JACKSON: I would not say it necessarily follows along the lines you stated. Besides the right to charge off depreciation higher than 5%, it provides the corporation with an opportunity in terms of the kind of year it has had to escape taxation.

MR. STEWART: In the sense if it has had a poor year it may claim less capital cost allowance.

MR. JACKSON: It could claim more depending on the year's results. It does not have the same effect spread over a number of years, that is evenly over a number of years tax-wise as it does if it is taken in big lumps for two or three years. The result could well be a very substantial loss in taxation.

MR. STEWART: Have you any thoughts on the question whether the Canadian system presently in effect is generous or otherwise when compared with the systems in effect in comparable industrial countries of the western world?

MR. JACKSON: No, I have no particular comment to make.

MR. STEWART: In paragraph 60 ---

COMMISSIONER PERRY: Are you leaving this subject?

MR. STEWART: I was going to pass to paragraph 60, Mr. Perry, which is really the first paragraph.

MR. ADAMS: I would like to make a comment that I think there is an element that tends to get overlooked: That the economic effect of faster depreciation in the early years does amount to giving a benefit to the corporation that takes it compared to the straight-line method on interest-free loan. They have the use of the money longer instead of turning it over to the Government. That is the real difference.

From your point economically if you have that kind of curve, and that kind of curve, they get to the same place in the end, and the end result is the same, but there is this economic difference. There is an advantage to the corporation in writing it off faster and having the use of the money.

THE CHAIRMAN: I had occasion to compare the depreciation allowances of this country and certain other western countries. While Canada is neither the best nor the worst, it was somewhere down the middle. I would have said to the contrary; others that are more generous and others that are not as generous. It would seem to provide an incentive for investment. At least I would assume it does for the reason you have given. I do not know whether it is effective or not.

MR. ADAMS: If I may carry this discussion on one step further. Largely the effect is determined by the prospective demand sign. We have an example in Canada today where we have over-capacity in a lot of lines, and the depreciation incentives are not necessarily

producing new investment.

COMMISSIONER PERRY: I have some questions not on the philosophy of depreciation allowances, but on your own calculations, which I think are best looked at by my examining Appendix A, Table 5. If I wanted to indulge in philosophical arguments, I think I would question why in your search for increased revenues you loaded about half of your total new revenues onto tax which for the most part you say is passed directly on to consumers.

In other words, something like four hundred million of the increase in your revenue is going to come from corporations, and you have asserted quite positively this is simply hidden tax on consumption. However, this does not disturb me particularly. It is probably one of the concessions you have had to make in order to preserve some revenue. I am quite interested, however, in your calculations, and I am not quite sure that I follow them.

I take it that in setting out first of all the total capital consumption allowances, and then deducting or setting below that total corporate depreciation charge in 1960, you were trying to arrive at a residual which was non-corporate depreciation. The amount of $2,164,000,000.00 is the total of corporate charges in 1960, including in your view the excess charge. From this you establish as a ratio of corporate capital cost to total, and I take it that the difference would be non-corporate capital cost.

We then move down to your own basis of a 5% allowance which brings you out to $1,749,000,000.00 as a means of determining what you think is the excess corporate

capital cost. I might point out in passing that if you assume a 6% rate instead of the 5% rate, and 6% would be just as easy to support as 5%, then your excess disappears virtually.

However, leaving that for the moment we will go on then to your next calculation. From these figures determine that excess corporate capital write-offs were $415,000,000.00, and then you apply your ratio of 2 : 1 to this amount to get your total excess write-off for all business, both corporate and non-corporate.

PB/dpw

Hence, estimated total hidden profit in total capital cost allowance is two times that, which is the ratio you had originally established, which I assume to reflect the ratio of corporate write-offs to all write-offs. This produces the figure of $830,000,000 and this is where you really escape me because you apply to that figure a 50% corporate tax as though this was all on excess corporate write-off. I could follow if you had applied 50% to the $415 million and then gone on and said that the rest must be non-corporate write-off and applied some rate to that and added the two figures, but I am wondering whether you haven't a bit of double counting in there.

MR. ADAMS: You have me. There is an error. The reason for this back-handed method of going at it was that there was no book value on depreciable assets for non-corporations. The error was, as you point out, in applying corporate tax rate.

COMMISSIONER PERRY: To the whole amount.

MR. ADAMS: It should have been the average individual rate applied to half of it.

COMMISSIONER PERRY: You lose a couple of hundred million dollars in this process.

MR. ADAMS: It is a mistake all right because averaging individual rates ---

COMMISSIONER PERRY: I have every sympathy with you because it is a very involved calculation. I think probably the national figures might have some deficiencies even for the purposes for which you are using them. It is pointed out, for example, this includes

depreciation on housing, the total capital consumption allowance. However, I don't want to press this too far if you say there is a double count.

MR. ADAMS: I agree there is a mistake there. The trouble is there is no principle value for the non-corporate depreciable assets. I was trying to get at it.

COMMISSIONER PERRY: As a horseback estimate this wasn't a bad try.

MR. STEWART: Mr. Jackson, could I go back to page 32 and refer you to the third sentence of paragraph 60 where you say this: "Now, really colossal sums, earmarked as depreciation or depletion, are never subjected to any tax." I would like to confine my question to the depreciation element only. I would like to put it to you this way: let us suppose a new company is formed and that a particular amount of capital is invested in it and part of that capital is utilized to purchase depreciable assets.

Then, as the company goes on with its operations, it claims depreciation on these depreciable assets. It would appear to me that the depreciation which is claimed is designed to maintain the funds which were invested in the depreciable assets and to enable the company in due course to replace those assets as they wear out. I am not quite clear, I am sure, if that reason is correct how these depreciation provisions can be treated as never subjected to any tax.

We start off with a capital investment and the object of the exercise is to maintain the capital investment.

MR. ADAMS: Imbedded in your example is the

fact that the depreciation allowance does equal the used-up value. A good deal of the argument on this question is that the present system of capital cost allowance allows deductions which are far in excess of the used-up values.

THE CHAIRMAN: Wouldn't that be true only if you went beyond 100%?

MR. ADAMS: No; I should think in any amount my statement would apply.

THE CHAIRMAN: It is the interest factor you referred to a few minutes ago?

MR. ADAMS: It produces funds for the company to buy new assets. The point we are making: it short-circuits what was normal in past years, income flow from corporations to individuals and back to corporations through the open market.

THE CHAIRMAN: Excuse me, Mr. Stewart. I don't think I succeeded in clarifying the matter a bit. I still think that those reserves must be eventually subjected to tax. I don't understand how they could be eventually excluded.

MR. STEWART: If I may go on and draw your attention to paragraph 63. You refer there to certain exemptions and special provisions which relate to new mines, pre-production expenses of the petroleum industry, cost of research facilities and so on. These are all, I take it, Mr. Jackson, incentive provisions which have been introduced either because it is considered that there are particular risks attached to a particular industry or because it is considered, and I am thinking

now of the research provisions, that there is a need for greater efficiency in industry and therefore research should be encouraged. These don't occur to me to relate to depreciation and capital cost allowance.

Dealing with them as they are, do I take it you consider that these provisions are bad and should be eliminated?

MR. ADAMS: If I may attempt to give an answer, Mr. Stewart, the thinking of the Union in this whole area as, I think, is set forth later on is: we are not very much impressed with the efficacy of tax incentives as they are devised under the present conditions in Canada to do the job you have described for them. That is the essence of this position.

MR. STEWART: Thank you very much.

MR. ADAMS: These tax incentives are not very effective under present conditions for the reasons given under that particular section.

MR. STEWART: You have a section commencing on page 34 entitled "Tax Havens." I don't intend to go into this at any length. I would like to ask you this: are you suggesting that there is something inherently wrong in Canadian capital, whether it is capital of an individual or capital of a corporation, being employed outside Canada?

MR. JACKSON: If the purpose is purely to escape tax, yes.

MR. STEWART: Where do we draw the line? Let us suppose that a Canadian commercial company or industrial company establishes a subsidiary abroad which

carries on commercial operations, should this be permissible?

MR. JACKSON: That is not included under what we have called "Tax Havens." We have given you specific instances; the Sanford Trading Company with the Canadian Westinghouse Company, which certainly has all the appearances of merely being a means to escape taxes.

MR. STEWART: I was wondering how far you were going because in paragraph 68 you appeared to be critical of Section 28(1)(d) of the Income Tax Act, which permits a foreign subsidiary, for example, to remit dividends to its Canadian parent free of Canadian tax.

MR. JACKSON: This is an area where we are raising a question more than making any positive proposition. We are raising the question for the Commission to look at.

MR. STEWART: Well now, I will go over to paragraphs 74 and 75 where you deal with certain statistics relating to dividends. I have had put before me a table which relates in particular to this problem of discrepancies which you raise. You indicate, in paragraph 74, that cash dividends amounted in that particular year to $1,631,000,000. You say that $470,000,000 of that was paid to non-residents and you say that $315,000,000 was reported by individual taxpayers.

Well now, there is a figure, Mr. Jackson, which appears in the 1962 Taxation Statistics, one of the books to which you refer at page 153, and you will find on that page that the dividends received by Canadian corporations in 1960 amounted to $514,000,000, so that if we

total the $470,000,000, the $315,000,000 and the $514,000,000 we get a total of $1,299,000,000. After we subtract that from your figure of $1,631,000,000 there is a balance of $332,000,000 which I think is one that must be accounted for and it has suggested to me that may be made up, at least in part, by dividends to non-taxable pensions funds and other non-taxable institutions and individuals.

It may well be, of course, that there are some dividends which are not reported for tax purposes. I thought you would be interested in the results of the research of the Commission staff to date on the question you raise.

MR. ADAMS: The question that bothered us was the difference between the $315,000,000 and the $408,000,000. We appreciated wives receiving dividends but not receiving enough income to be taxed and things like that would account for some amount, but it seemed like a large amount to be covered by things like that. We had no means of trying to reconcile the figure.

MR. STEWART: If we go over to paragraphs 84 and 85 you deal with what you suggest the exemptions of individuals and families should be for income tax purposes. In 1960, according to this same book, entitled "1962 Taxation Statistics," which relates, as I think I mentioned, to the 1960 taxation year, it appears on page 8 of the brief the number of Canadian individuals who are taxpayers was 4,389,766. The effect of your proposal as I see it from paragraph 85 is that you would eliminate something over 2,800,000 of those taxpayers.

MR. ADAMS: The figures we arrived at were

930,000 single persons and 1,936,000 families would be removed from the taxpayers.

MR. STEWART: Having regard to the differences of family I take it that the total number eliminated would be the total of these two figures?

MR. ADAMS: Yes.

MR. STEWART: This is substantially more than half the present taxpayers. Again, looking at page 8, the amount of tax which you say would be lost which totals just over $1,000,000,000 would be substantially more than half the total tax of individuals which is shown on page 8 at $1,703,000,000.

MR. ADAMS: I am sorry, would you give me your last figure again?

MR. STEWART: I am looking now on page 8, third last column, $1,703,000,000.

MR. ADAMS: Yes.

MR. STEWART: So there is a loss of revenue here for something over half that amount?

MR. ADAMS: Well, we have put some tables in where we try to calculate it. I don't think you can calculate it by looking at the table on page 8. You have to go through the motions of working out what the exemptions and the changed rates would be. This is set out fairly fully in Appendix A, Table III and III(a).

MR. STEWART: I am looking, Mr. Adams, at paragraph 84. I was wrong in saying something over $1,000,000,000. You have $525,000,000 and $462,000,000, a total of $987,000,000, which is more than half the total proceeds of the tax in that year.

MR. ADAMS: Yes.

MR. STEWART: I take it the effect of this, having regard to what you have said earlier in your submission about the incomes of members of your Union, is that all or a great majority, at any rate, of the members of your Union would be exempt from income tax altogether under this proposal?

MR. JACKSON: We are using the average of the industry, not of the Union.

MR. STEWART: Let me rephrase the question: the effect would be that the average member of the industry would be completely free from income tax?

MR. JACKSON: The average member of the industry, yes.

MR. STEWART: So that if we succeed in doing what you suggest, including the further reductions that you suggest later on may be possible if capital gains tax is imposed, the members of your industry, the wage-earners of your industry, and other people similarly situated throughout the country, will bear no income tax burden, and, in fact, a very small tax burden of any kind?

MR. JACKSON: They will still be left with a rather small income, net spendable income. That is the basic point.

MR. STEWART: I just wanted to be sure I understood this. I take it that you consider that it is in the public interest that as large a proportion of the population as this should live in a country and be completely free from tax?

MR. JACKSON: I would put the question the

other way: we believe that the country has an obligation to assure at least a minimum of decency and health for its people.

J/MR/ss

MR. JACKSON: If their incomes are that low that they cannot meet that standard of health and decency, there should be no taxation.

MR. STEWART: I think we would all agree that it is most desirable that all the population be able to live at a decent and proper standing, but you, in any event, consider that income up to $6,000.00 should be free from income tax and over a period, while these proposals of yours were being put into effect, they would be virtually free of tax altogether?

MR. JACKSON: We have set out two standards. One for individual. One for a family standard. $2,500.00 for an individual and $6,000.00 with a family.

We believe that the taxation impact should be on those incomes that are above that level. We believe, further, that the higher incomes are derived from the employment of those in the lower income levels and are, therefore, derived from the measure of exploitation of those people in that they are deriving the benefits of the productive activity of those who are in the low income bracket.

Therefore, the impact of taxation should be on those incomes, not on the incomes of productive workers who cannot maintain a standard of health and decency.

THE CHAIRMAN: May I interject here? I do not want to get into the economic and social doctrines of this matter, but I did not gather that the figures you set forth of $2,500.00 and $6,000.00 were described here as minimum decent standards. In looking at page 9 I see typical family expenditure, and down below I see a certain

budget. Do I now understand the words "typical family expenditure" you set out to be synonymous with "minimum decent standard"?

MR. JACKSON: No. We have only gone that far at this stage. We have not approximated minimum standards.

COMMISSIONER PERRY: On the entirely safe grounds of arithmatic, I wonder if it would be possible for the witnesses to recalculate the table on page 11, that is the incidence of present taxes, to show the incidence as it would be after implementation of your proposals,because there are more taxes involved than income tax. Could that be done and submitted to the Commission? I don't mean at this moment.

MR. ADAMS: We will try.

MR. JACKSON: We will undertake to do it, sir.

COMMISSIONER MILNE: I have a question I would like to ask you at this point, Mr. Jackson. It seems to come up easily now, and I would like it clear for my own notes. I have been interested particularly in the family unit and the tight budget of the workers and the expenditure pattern, and I have written down, in my notes, from a survey to which you referred a little bit earlier this morning you spoke about the family unit, that the poverty level would be incomes under $4,000.00; that the deprivation level is $4,000.00 to $6,000.00 and then the $6,000.00 to $7,000.00 is a comfort level, so that at this point you are taxing at the comfort level?

MR. JACKSON: On the basis of our proposition we say that incomes up to $6,000.00 on a family unit should be tax-free. In other words, we put our people on

the basis of the Keyserling Report in the middle bracket, not in the top bracket.

THE CHAIRMAN: You say that Government expenditure, which is collective expenditure for all of us, taking in our garbage, if you like down to that level, social welfare and all the rest of it, should not be borne by people up to the $6,000.00 bracket whether they derive benefit from that. The cost of that benefit should be levied on people with something in excess of $6,000.00; is that correct? The $7,000.00, $8,000.00, $9,000.00, $10,000.00 people ought to pay the shot.

MR. JACKSON: We have set out a table in that regard. The $6,000.00 is a family income unit. $2,500.00 is for an individual. We have not proposed getting into all taxes that there are. We haven't gone into the question of property taxes, for instance.

THE CHAIRMAN: Oh, I saw a mention of that in the budget.

MR. JACKSON: That would still be included in the budget even if our proposals were implemented.

MR. STEWART: Can I move on to paragraph 96 on page 52? There you recommend that in addition to the tax paid by the corporation, the proportion of total corporate after tax-profit, in effect, be deemed to be distributed to the shareholders and that a 15% tax on the amount deemed to be distributed should be withheld by the company.

Having regard to your views as to the shifting of the ordinary corporate tax, would you consider there would be any risk that that 15% would be passed on to

consumers and labourers as well?

MR. JACKSON: I wouldn't think so. It is a tax collected on behalf of an individual, the ultimate recipient in the tax pattern, with the corporation merely acting as a tax collecting agency as they do on salaries and wages.

MR. STEWART: One suggestion which has been made to us in earlier hearings is that, to the extent the income tax is passed on it operates as a hidden sales tax which applies to goods generally, including goods which are exempt from normal consumption tax. I don't think you made that point in this particular brief, and I wonder if you would care to comment on it.

MR. JACKSON: The statement is that the corporate tax, by and large --- in fact, we say the total is passed on and, therefore, acts as a brake on consumption. It is essentially our position and it appears in the price of commodities and services.

MR. STEWART: You told us earlier that as far as this tax to be withheld is concerned, you would treat non-residents in a special way. You would treat payment to corporations who were non-residents as taxable, in effect, at the progressive individual rates. Have you got so far as to consider how you would treat distribution to life insurance companies, pension plans, charitable foundations, and so on?

MR. JACKSON: Those would redound ultimately to the benefit of an individual and can be carried through one corporation or the other to the ultimate recipient.

MR. STEWART: In the case of unincorporated pension

funds there might be a problem. Charitable foundation does not have shareholders at all.

MR. JACKSON: We have raised --- I don't know whether we raised it here or not, come to think of it, the whole question of the foundations. We think that that is something that the Commission should look into as to whether those foundations are used for the purpose declared or whether they are havens, if you will, tax havens for corporations.

MR. STEWART: I am coming to your proposed capital gains tax as it applies to individuals. You have already told me that the tax would not be a special flat rate tax. The capital gain would be included in the ordinary income tax at the progressive rates. Have you considered what should be done as regards capital loss? Would you have it deducted from income?

MR. JACKSON: We would not argue that way. We were talking about capital gains. What is the end result in terms of a year's capital?

MR. STEWART: Supposing a particular individual in that one year does not have capital gains, but has capital losses. Does he get relief?

MR. JACKSON: What is his net worth at the end of the year?

MR. STEWART: I don't think you can ---

MR. JACKSON: We don't have to argue as to how he arrived at the end result. What has he got at the end of the year? That is what we are concerned about.

MR. STEWART: I suggest to you a net worth tax is quite a different thing from a capital gains tax.

MR. JACKSON: That is the direction that we are proposing ultimately to move in.

MR. STEWART: In this transitional period, when there is simply a capital gains tax, it sometimes happens that people do sustain capital losses. They may in a particular period have both gains and losses. I am asking you if there is a loss, whether that will constitute a deduction from income.

MR. JACKSON: We wouldn't argue that it would constitute a deduction from income tax.

MR. STEWART: That seems to be a somewhat Irish answer: You would not argue that it would. Have you considered this question to the point where you could say whather, under your system, both capital losses and capital gains are to be taken into account?

MR. JACKSON: We have taken them into account in terms of what is the end result at the end, in terms of gain. We have not looked at the exceptions which would turn up losses.

MR. STEWART: Now then, looking at paragraph 101, to which we have already referred, I am now referring to the last sentence on page 55, of paragra ph 101:

> "Eventually, therefore, we should look to a simple tax system consisting wholly of steeply progressive rates on all increases of wealth accruing to individuals."

As matters now stand, it appears to me that the number of individuals in Canada who will be income tax payers is going to be markedly small. I wondered if you had considered what the effective tax rate on

individual taxpayers would likely be in that system?

MR. JACKSON: Have we projected the tax structure to the point of increased taxation on increased wealth? We have not projected it. We have considered, as far as we have gone at this moment, the projected tax structure would meet the needs of Government.

While you say that the number of taxpayers will be much smaller, the accretion of wealth could be substantially greater.

MR. STEWART: Well, certainly if capital gains are brought in and are substantial the tax base would be broadened in that respect, but I cannot help think this: That the amount of revenue, Government revenue which under your system is to be derived through the income tax, is going to be very high. The number of individuals who are going to be contributing that revenue is comparatively small, and therefore, the effective rate of the average rate of tax which would be payable would be very high indeed.

MR. JACKSON: I did not get the last point, sorry.

MR. STEWART: My last point was that having regard to the amount of tax required, the number of people who would be contributing to it, the average rate of tax payable by those individuals would be very high indeed.

MR. JACKSON: But that is where the wealth of the nation lies and, therefore, that is where you have to go for the tax. It is not a matter of people. It is a matter of wealth that has to be taxed and the people who have the wealth are the people who should pay the taxes.

THE CHAIRMAN: Might I ask just what, if any, calculation has been made as to whether if all wealthy people, that is $10,000.00 or more, we will assume, contribute their entire income in excess of $10,000.00 to the Government, what the balance of taxes would be? I just don't think there are enough wealthy people in the country for that kind of exemption. I think before you knock half the people off the tax rolls, some kind of a calculation should be made.

MR. JACKSON: What are we talking about? Income or increments in wealth?

THE CHAIRMAN: I am prepared to accept your definition of income, which I presume includes all movement of wealth.

MR. STEWART: All realized income.

MR. JACKSON: It is our supposition, we have not calculated it out to the nth degree, there is adequate wealth there to be taxed at the level to provide the needs of the nation.

MR. STEWART: I have no further questions.

THE CHAIRMAN: I have one question I would like to ask. I am interested in the suggestion that corporation taxes should be eliminated because as this gentleman pointed out it really operates or they suggest it operates as a sales tax without the rules which are imposed on sales taxes. Would you, therefore, join with the other organizations, such as the Manufacturers' Association, the Chamber of Commerce, etcetera, in pressing for a reduction in corporation taxes if it could be achieved within budgetary limits?

MR. JACKSON: We did look over the Manufacturers' Association presentation as it was written up in C.C.H. and we were totally unimpressed with their proposition.

We do not see a move in that direction as being other than just sort of tickling the situation. We would not advocate that that be the direction our move be made in.

THE CHAIRMAN: They wish to reduce corporation taxes, you see.

MR. JACKSON: We wish to see it eliminated.

THE CHAIRMAN: But to get it eliminated wouldn't you have to go at it by degrees?

MR. JACKSON: We do not let that stand on its own feet. We never thought that that proposition, the capital gains, should stand by itself. It is almost meaningless in its ultimate effect in terms of what we are concerned about. We do not think there would be a reduction in price commensurate with it.

ET/dpw

THE CHAIRMAN: Thank you. I get your point. I think that completes our questions, Mr. Jackson. Do you have anything else you wish to put before us or say to us?

MR. JACKSON: I would think not. I think in the course of the brief itself and the questioning that has gone on you have plumbed most of the depths we are concerned about.

THE CHAIRMAN: You have certainly provided us with a most stimulating and thoughtful submission. We have had a very good morning, indeed, thanks to you. We are greatly appreciative of your efforts in the national interest because I accept it as being in the national interest that you are doing this, and we are very grateful. Thank you very much, gentlemen.

MR. JACKSON: Thank you.

THE SECRETARY: There is nothing more this morning, sir. Tomorrow, at 9.30, we have Hiram Walker-Gooderham and Worts of Walkerville, Ontario; also, the Institute of Edible Oils, Toronto.

THE CHAIRMAN: We will stand over until 9.30 tomorrow morning.

--- Adjournment

ROYAL COMMISSION

ON

TAXATION

HEARINGS

HELD AT

TORONTO
ONT.

VOLUME No.: 18

DATE: May 10,1963

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ROYAL COMMISSION ON TAXATION

Hearing held in Howard Ferguson Auditorium, Sir Daniel Wilson Residence of University College, University of Toronto, Toronto, Ontario, on Friday, the 10th day of May, 1963.

COMMISSION:

MR. KENNETH LeM. CARTER -- Chairman

MR. J. HARVEY PERRY

MR. A. EMILE BEAUVAIS

MR. DONALD G. GRANT

MRS. S.M. MILNE

MR. CHARLES E.S. WALLS

LEGAL ADVISER:

MR. J.L. STEWART, Q.C.

RESEARCH DIRECTOR:

PROF. D.G. HARTLE

SECRETARY:

MR. G.L. BENNETT

ROYAL COMMISSION ON TAXATION

HEARINGS HELD AT THE CITY OF TORONTO, ONTARIO

May 10, 1963

TOPICAL INDEX — VOLUME No. 18

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Volume No. I8

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TORONTO, ONTARIO

Toronto, May 10, 1963

The Institute of Edible Oil Foods — Volume No. 18

INDEX OF EXHIBITS

Note:

Brief of The Institute of Edible Oil Foods dated March 29, 1963 inserted in Volume No. 17-A May 9, 1963 after page 100 thereof.

Toronto, Ontario,
Friday,
May 10th, 1963.

dpw

--- On commencing at 9.30 a.m.

THE CHAIRMAN: Even though it is five minutes early I see no reason why we should not start. Would you like to start now?

MR. KIDD: We are ready right now.

THE CHAIRMAN: Mr. Secretary, would you put things in motion and introduce our guests?

THE SECRETARY: Thank you, Mr. Chairman. Good morning, Mr. Chairman and Commissioners. We have this morning with us officials from the Hiram Walker-Gooderham and Worts Limited, Walkerville, Ontario. Mr. Snelham, Comptroller of the company, and Mr. P.J.G. Kidd, Assistant Secretary, are here. Mr. Snelham will speak first to the brief. I would like to enter the brief of the Hiram Walker-Gooderham and Worts Limited into the record as Exhibit No. 57.

--- EXHIBIT NO. 57: Submission of Hiram Walker-Gooderham and Worts Limited.

SUBMISSION OF HIRAM WALKER-GOODERHAM

AND WORTS LIMITED

Appearances: Mr. T. Snelham, Comptroller
Mr. P.J.G. Kidd, Q.C., Assistant Secretary

THE CHAIRMAN: Thank you, Mr. Secretary. Good morning, Mr. Snelham and Mr. Kidd.

MR. SNELHAM: Good morning, Mr. Chairman.

THE CHAIRMAN: It is usually our practice to invite people appearing here to speak to their submission

if they wish to do so, and we certainly suggest that they remain seated unless they like to stand up. You may do whatever you please. We have read what you put in with considerable interest. If you wish to speak to it we will be glad to hear from you. We have a few questions which we will address to you later.

MR. SNELHAM: We have a few comments we would like to make.

THE CHAIRMAN: Fine.

MR. SNELHAM: The termination of paragraph 2 of Article 11 has, in effect, increased the withholding tax from 5 to 15 per cent on dividends flowing from Canadian subsidiaries to the United States parents, and on dividends flowing from the United States subsidiaries to their Canadian parents.

THE CHAIRMAN: Can you speak a little louder?

MR. SNELHAM: It is this latter point that concerns us. Profits of our subsidiaries in the United States are subject to a tax of approximately 52% in that country. Can you hear me now?

THE CHAIRMAN: Yes.

MR. SNELHAM: Dividends paid from the remaining 48% are now subject to a tax of 15%, none of which is recoverable in Canada since dividends from the subsidiaries are not taxable under the Canadian Income Tax Act.

If we start with one million dollars of U.S. taxable income, the income spendable in Canada after United States income taxes and U.S. withholding taxes of 15% on dividends from the earnings of a million dollars is about $412,000.

This figure is approximately $48,000 less on the same million dollars of U.S. taxable income that is available for dividends than it was at the former 5% withholding rate. This amount of $48,000 is in itself perhaps not huge, but it does represent a 10½% reduction in income available in Canada.

Furthermore, we are firmly convinced that the 15% withholding tax on dividends is not in Canada's long-term interest. The 5% withholding rate was put into effect at least 20 years ago, and during that time large amounts of U.S. capital were attracted to Canada. The same amount of capital would probably not have been attracted had the withholding tax been 15%.

The withholding rate on dividends was increased from 5 to 15 per cent, and surcharges on imports were imposed in 1960 through a crisis in Canada's balance of payments. The surcharges have now been removed again permitting a freer flow of goods. We are of the opinion that the restoration of the former 5% withholding tax would permit a freer flow of capital that would be in Canada's long-term interest.

Many western countries are moving toward lower tariff barriers in the belief that greater freedom in this area is beneficial. If trade in goods is being encouraged because it is helpful in the long run, then surely the international movement of capital required to produce such goods should not be unduly restricted. Just as efficiently as a high tariff will keep out goods, a high withholding tax on dividends from capital invested in a country will prevent such capital from coming in.

In advocating a 5% rate we have been influenced by the former rate. We would call your attention to the lack of any withholding tax on dividends flowing to Canada from the United Kingdom and New Zealand and probably Belgium. If you have any questions on our brief we would be pleased to try and answer them.

THE CHAIRMAN: Thank you, indeed. We certainly have a few questions. I think perhaps our concern would be to find what might be a neutral position with regard to taxation in Canada on foreign capital. I think that may be defined as placing capital which is invested in Canada from the United States in roughly the same position as it would be if it were invested from other countries.

You have in here indicated that earnings going out of Canada are taxed at about 59%.

MR. SNELHAM: Yes.

THE CHAIRMAN: Which is the earnings tax plus
2 15% on the balance.

MR. SNELHAM: That is right.

THE CHAIRMAN: I wonder if one were investigating money invested from the United States, and looking at all the possibilities whether Canada would look particularly bad as compared to the situation in other countries. Would you have any views on that?

MR. SNELHAM: As far as we have been able to determine, U.S. capital could be invested in the United Kingdom at a lower overall rate than 59%. There is no withholding tax in the normal sense of the word. As you know, they gross up the dividend there.

We are quite certain that the Argentine overall

tax is lower; France, Australia, I believe is, and even possibly Germany. It is very hard for us to get some of these figures.

THE CHAIRMAN: At this stage I do not believe we have those comparable figures, and we will probably secure them as we go along. I was wondering whether you had any.

MR. SNELHAM: We have made some studies, yes, and we are almost positive about the four countries I just mentioned as being lower than Canada, and we like to try to find countries where American capital might go instead of Canada.

THE CHAIRMAN: That is what we would like to know; whether there are countries which are more attractive than Canada. If you have any information on that score and would care to make it available to us, we will be very glad to receive it.

MR. SNELHAM: We shall be very glad to send it to you.

THE CHAIRMAN: Thank you.

COMMISSIONER PERRY: I wonder if Mr. Snelham would care to offer any comment as to what has in fact been the effect of this change in this withholding tax. The arithmetic is fairly easy to understand. Would you care to say what has been the effect in your own case or in any other cases of which you have knowledge? Have any of your own plans for expansion been changed? I am not really probing here; I am just seeking information.

MR. SNELHAM: I do not think I could truthfully say that our own expansion plans in Canada have been

affected. There are many other things besides taxes that affect that.

It is quite evident that the increase in the withholding rate from 5% to 15% does affect our cash position to some extent because the United States keeps it, but again that is a factor. Whether we expand depends on many things.

COMMISSIONER PERRY: This in itself is important to the Commission. So many people are prone to blame taxes for everything. Quite often there are three or four other considerations of equal importance.

MR. SNELHAM: Well, I do not think we would claim that taxes are the only thing that affect our decisions. It is certainly a factor.

THE CHAIRMAN: When you look at the opportunities for investment abroad and you rate taxes in those opportunities, of course; it is a necessary cost and you compute the profit having regard to that cost.

MR. SNELHAM: That is correct.

THE CHAIRMAN: You have investments in a number of countries, I believe. Would the changed situation in the States, you believe, influence your decision as to investment in the States as against other countries?

MR. SNELHAM: No, I do not think it would because basically our investments in various countries depend on the market.

THE CHAIRMAN: Yes.

COMMISSIONER PERRY: I take it from your general presentation that you are reconciled to some withholding tax even though a small withholding tax would

be over and above your Canadian tax burden?

MR. SNELHAM: It has never been less than 5%. We would have asked for zero, but it was 5% for many, many years. There are some countries that do have no withholding at all. What we are really asking is just to go back to what we had 20 years ago - for over 20 years.

THE CHAIRMAN: You believe this 1960 change had much impact on the investment of funds in Canada from the United States?

MR. SNELHAM: I suspect so, although we have no figures.

COMMISSIONER PERRY: Just as a point of fact, I seem to recall in reading your short presentation you said that the austerity taxes on imports came on at the same time as this change in the withholding rate. In other words, December, 1960.

I think, in fact, that they were only brought in last June at the time of the exchange crisis. This does not affect your argument in any way, but I think, as a matter of fact, that is the position.

MR. SNELHAM: Mr. Kidd says I am wrong and that you are right.

COMMISSIONER PERRY: I say it does not affect the argument at all. I think it is true, though, that they were a little more recent.

THE CHAIRMAN: The purpose of our questioning is, of course, to make sure we fully understand what you put before us, and I think without further questions we very clearly do understand. We will certainly consider

the matter, I can assure you, and we have lots of time to do so before we put in our report.

We are very much obliged to you for bringing us this submission and for the thoughts. If you have anything more on the subject, be sure to send it to us.

MR. SNELHAM: Thank you, sir.

THE CHAIRMAN: We are very much obliged to you. Thank you very much.

MR. SNELHAM: Thank you so much, Mr. Chairman, Commissioners.

--- Short Recess

PB/ss

THE CHAIRMAN: Mr. Secretary, would you be kind enough to introduce our visitors to us.

THE SECRETARY: We have with us this morning officers of the Institute of Edible Oil Foods. Miss Margaret Hyndman, Q.C., is the President of the Institute and she will speak to the brief, which I now enter as Exhibit 58.

THE CHAIRMAN: Good morning, Miss Hyndman, gentlemen.

---EXHIBIT NO. 58: Submission of the Institute of Edible Oil Foods.

SUBMISSION OF

THE INSTITUTE OF EDIBLE OIL FOODS

APPEARANCES:

Miss M. Hyndman, Q.C.
R.E. Merry
W.G. Milliken.

THE CHAIRMAN: Would you care to introduce your associates, Miss Hyndman? Usually in these matters our visitors speak to the their briefs,summarize or add to them or whatever they please. We have all read it and it is entered into the record without reading. We have a few questions we wish to put to you which we will do in due course. In the meantime we would like to hear from you. Please remain seated.

MISS HYNDMAN: Mr. Chairman, Mr. Bennett has elevated me very considerably in his introduction by saying

I am president of the Institute. I am counsel for the Institute. The reason I am presenting the brief this morning is that Mr. Harry Curtis who is president of the Institute has been ill. I am pleased to have with me Mr. Robin E. Merry who is immediate past president of the Institute and Mr. W.G. Milligan who is vice-president of the Institute. We regret that Mr. Curtis is not present.

I don't propose to read the brief and I don't propose to labour the point too much, because we are eager to satisfy the curiosity and interest of the Board. Compared with the submissions which you have been hearing, ours are singularly uncomplicated, dealing as they are with one tax and one item which is the subject of taxation. It is the sales tax, and the item in question, as you know is margarine. Sales tax, consumption tax I think it is so referred to in the Act is passed on to the consumer, so essentially I am speaking this morning on behalf of the customers of manufacturers of margarine, because they are the people who in the end bear the tax by paying the tax which is intended to be and is passed on directly to the consumer. We welcome this opportunity to bring to the attention of an unbiased tribunal which doesn't have to seek either election or re-election the facts in connection with this one item of taxation. You will find in our submission the history of margarine in legislation on pages 2,3 and 4.

I would like to call your attention to the fact that in the year 1920 and 1921 there was a suspension of the otherwise 62-year ban on the manufacture and sale of

margarine. The provisions of forbidding manufacture and sale and importation were in a number of acts, in those acts dealing with dairying, and the Act in which this was eventually prohibited or eventually removed from manufacture and sale was called the Act to Protect the Dairy Industry. In 1920 a Statute was passed, not repealing, but suspending the portion of that ban for one year, and then again in 1921 another Statute was passed again suspending the portion of the ban for a year. It wasn't until 1948 that the Supreme Court found the matter was one of a regulation of a trade and not the regulation of trade and commerce in the sense that is used in the B.N.A. and it was ultra vires. The prohibition as to the importation of margarine still remains on the Federal Statute books.

I have said and I don't need to labour the point that margarine is recognized as a nutritious food. I recall when the material was filed by the Federal Government in the Supreme Court of Canada on that hearing that one of the documents which the Federal Government filed was a long statement from medical authorities as to the nutritious value of margarine. It is contained in the health rules of Canada as one of the basic foods. I am not here to advertise the product, but I will call your attention to these facts, because I have referred to it as a basic food.

As I have outlined on page 4 at the time that the Supreme Court of Canada was finding or considering the question of whether or not the legislation should be declared ultra vires the Act of Union with Newfoundland

was consummated and in one of the appendices to my memorandum I have submitted the pertinent parts of the Act amending the British North American Act and which approved the Agreement of Union, and I have also set out there one or two of the terms of the agreement of the union. I think you will see that the matter of the manufacture and sale of margarine was regarded as of such importance to the new province of Canada that an agreement was reached that no Canadian legislation was to prohibit or restrict the manufacture or sale of margarine in the province without the consent of the
2 province itself. The result has been that the consumers of margarine in the Province of Newfoundland have never been taxed, and apparently the Federal Government, the Parliament agrees with our contention that a tax on this one item of food when others are not taxed is a restriction. I think it is perhaps arguable, fair to assume that had the Act been declared ultra vires some earlier and been recognized as being ultra vires in the manufacture and sale of margarine it would have been included in the exempted foodstuff.

However, in the meantime, a great deal of heat has been generated and it has become popular to regard anything having to do with margarine as a political hot potato that is to be avoided. Whatever the reason for it is, we urge upon you that it is unfair discrimination against the consumer of this nutritious product, the consumers who run into millions of people in Canada.

I would like to call attention to a mistake in subtraction, if it is not a clerical error on page 4 of

the brief in which I refer to Senator Euler and say he fought for 51 years. It should be 31 years.

THE CHAIRMAN: I don't see that, Miss Hyndman. I am sorry, it is on about the tenth line.

MISS HYNDMAN: I think too, since I have mentioned one of the discriminations which has been shown against this product that I should say for the record that although I have mentioned that restrictions were introduced in every Province immediately after the legislation had been held to be with the Provincesand that the main one, the one common to all Acts was the restriction of colouring margarine. In 1952, the legislature of the Province of British Columbia repealed that legislation and since then the people of British Columbia have been able to buy yellow-coloured margarine. In Manitoba, Nova Scotia and since this submission was written, in Ontario, there has been legislation permitting colour, but what a colour! I won't need to go into that, because the matter we are concerned with only is taxation.

On page 5 of my brief there is a reference to Federal sales tax as being first introduced in Canada in 1947. It was first introduced into the Special War Revenue Act in 1920. The plan of the Act in the first instance was to state all the articles that were to be taxed. The plan seemed to be first to go through a list of all the clothing that a man or boy might wear, starting with fur caps and cloth caps and so on, and similarly to go through a list of clothing women or girls might use. It is rather interesting history to read some

of the items that were taxed in the 1920 Statute. Later the Act was changed and instead of naming all the things that were to be taxed, all the items that were to be taxed, a general tax was levied and exemptions listed. These exemptions are now filed in Schedule 3 to the Act.

What happened in 1947 was that instead of being handled as it had been all these years in the Special War Revenue Act, provisions were put into an Act called the Excise Act. I would like to correct that figure there from 1947 to 1920.

And in addition, although I have said we are representing the consumers' viewpoint and interests primarily, we feel it proper to bring to the attention of this Commission that the oil seed potentialities in Canada which from a taxation standpoint and the standpoint of economy is a matter of very considerable importance and if encouraged in that way, including a lack of restrictions on the end products, we say can enlarge not only the farm income, but the general economy of Canada.

If the members of the Commission should be interested in Mr. Euler's submissions on this question of sales tax, I would refer you to the Hansard of Wednesday, June 22nd, 1960 where some of the arguments which I have endeavoured to put before you this morning are set forth.

I think, perhaps, I ought to say one thing as to the procedure by which the tax is not paid on sales of margarine in Newfoundland. It intrigues one as a lawyer, and I think is without precedent in regard to any other

item subject to tax. Monthly the companies who manufacture margarine write to the Department of National Revenue Customs and Excise and report the dates of shipments to Newfoundland and names and addresses of the consumee, the quantity shipped in pounds and the value, and then they add a certificate that the above statement constitutes an actual complete return of all oleomargarine supplied to persons or firms in Newfoundland during the month, whatever it is, and to the best of our knowledge and belief the entire quantity is for consumption in Newfoundland. In due course they are informed that Order in Council bearing date of so and so and numbered so and so remitting to your account sales tax amounts so and so has been passed.

To sum up, if I may, primarily the tax on margarine is not a tax, but the instrument, whether intentional ornot, of discrimination against a nutritious food product. It is anomalous and from a constitutional and legal standpointunhealthy that there should be a tax levied on a part of Canada which is not applied to the whole of Canada, and that in the budget of Canada the tax on margarine is negligible. To the consumers who have large families and not a very large income, it is a considerable item and is a real hardship, because as I have said, the incidence of the tax is borne by the purchaser of the margarine. We would be glad to answer any questions.

THE CHAIRMAN: Thank you very much, indeed, Miss Hyndman. We certainly have a few questions. You have stated that the tax is passed on to the consumer. I was

wondering just how that applied in this unique taxing procedure with regard to Newfoundland. Would the price of margarine then be different for Newfoundland than for the rest of Canada?

MISS HYNDMAN: I will ask Mr. Merry to answer that question.

C/MR/dpw

MR. MERRY: I think the price of many commodities in Newfoundland is different. Very often it is higher because of the additional transportation cost. Competitive brands would be the same in Newfoundland. They would bear the same relative price range as they would in the rest of Canada but whether they will be higher or lower I couldn't say. I think it probably would be higher because most goods manufactured on the mainland and sent to Newfoundland are somewhat higher because of the transportation cost.

THE CHAIRMAN: You can assure us, I take it, that margarine is cheaper in Newfoundland than it would be if an Order in Council remitting the tax were not passed monthly?

MR. MERRY: Indeed, yes. As a matter of fact, a lot of it is made in Newfoundland. There are plants in Newfoundland and the majority of it is made there. It certainly has the lowest possible price it could have.

COMMISSIONER WALLS: With respect to the situation in Newfoundland, was the difference in cost treatment not due to the fact of the agreement when Newfoundland came into confederation, that they would continue to keep margarine on the basis that they had been getting it heretofore?

In other words, in Newfoundland they produce no butter. Practically 100% of their milk goes on the fluid market. Newfoundland was always a margarine country. I believe the reason the concession was made was an agreement at that time to assure the people of Newfoundland they would continue to get margarine at as low a price

as possible.

MISS HYNDMAN: There is no question of that. It was a very vital question to them because they were dependent on margarine almost entirely for their spread and they need, in that climate, fat in their diet. They had come to rely on it, but this resulted in this anomalous tax situation.

COMMISSIONER WALLS: Is it not a fact, Miss Hyndman, that very little, if any, of Canadian-produced soya beans go into domestic margarine but is rather used on the 3 to 1 basis on exporting United States soya meal to the United Kingdom? In other words, as I understand it, to come under the British Preferential Tariff you have to have one part Canadian soya meal to three parts of U.S. before it will be considered as a Canadian product and therefore practically all of our production of soya beans in Canada is used for that purpose rather than going into domestic margarine.

MISS HYNDMAN: I believe that is only meal, but I would ask Mr. Milliken to answer that question.

MR. MILLIKEN: No. It is not the mixture of meal at all. It's the mixture of beans. We have to guarantee that 25% of our crush on a daily basis is made from Canadian-grown beans. You can do anything with the meal or oil but you have got to guarantee 25%.

Last year we crushed around 17,000,000 bushels in Canada and the crop, the soya bean crop in Canada, is 6.6 million.

Practically the complete crop went for crushing in Canada. Most of the meal is exported to the United

Kingdom on preferential tariff and the resultant oil that is left is consumed in margarine in Canada and shortening.

COMMISSIONER WALLS: It is only meal that you ship to the United Kingdom?

MR. MILLIKEN: Primarily the meal. We have got a surplus capacity of crushing in Canada so that we are forced to export some oil, too. We can sell all the oil we require for Canada to our present capacity here, but we haven't got enough beans.

COMMISSIONER WALLS: Just one other question, and this is a question purely for information. You mentioned in the brief that the acreage in soya beans is practically identical with what it was 10 years ago and that there is room for expansion if margarine is given more encouragement. Is it not a fact that there arereally only two counties in Ontario that lend themselves to producing soya beans competitively with the United States, i.e. Essex and Kent Counties? While there has been some production elsewhere, neither the return per acreage nor the fact that they are too far away from the crusher made it economically advantageous to grow soya beans outside of these two counties.

MR. MILLIKEN: Actually, there are more than two counties that can grow that, but that general area, Southwestern Ontario, they are preferential soya bean counties that grow it chiefly because they have a hot, moist climate and when you get out in the fringe areas you do lose your yield and your quality. Canadian-grown soya beans are not as high quality as the United States soya beans. They have a lower oil content; sometimes

less meal.

COMMISSIONER WALLS: So the limitation on land is really the reason why there is not a greater expansion?

MR. MILLIKEN: Quite true. It competes with
2 Canadian corn and tobacco, primarily, for acreage.

THE CHAIRMAN: We can grow excellent corn in this country. Why can't we grow excellent soya beans?

MR. MERRY: Soya beans are satisfactory. The Illinois beans are considered probably the finest in the world. In the Canadian soya beans the oil content is not as high.

THE CHAIRMAN: Is that the hot, dry climate?

MR. MERRY: It is difficult to tell. The yield in Ontario has been very good the last two or three years. It has been higher than the U.S. average and soya bean growers are obtaining a price equivalent to the United States beans laid down in Toronto, and actually they have got a ready-made market.

THE CHAIRMAN: I think your point is that sales tax is not a proper instrument to regulate the flow of imports into Canada?

MISS HYNDMAN: No.

COMMISSIONER WALLS: Am I right, in Ontario, the domestic production of soya beans only fills about between 8 and 9 per cent of our domestic soya bean requirements? I am talking about domestic soya bean requirements, not export. Would that be about the percentage?

MR. MILLIKEN: No. As I said earlier, the production last year was 6.6 million and we actually

crushed 17,000,000 in Canada, so it is getting up to almost half.

COMMISSIONER MILNE: Miss Hyndman, you mentioned about the oil seed potentialities, that they were of significant importance, and you discussed the soya bean. Are there any potentialities for other oil seeds in other parts of Canada? I am thinking of Manitoba.

MISS HYNDMAN: Yes. In Manitoba, you have the sunflowers, the sunflower seeds there, and further west the rape seed.

MR. MERRY: I would just like to say, for the record, that I have done a certain amount of investigation into these potentials and it is nice to be able to say that our agricultural research scientists in Canada, working on different types of oil seeds that are appropriate to our northerly climatic conditions, their research work is more advanced than any other country in the world.

The work, both in Ottawa, the experimental farm in Manitoba, at the research stations in Saskatoon, is extremely advanced and we are having visitors from all over the world come to see this excellent work.

The important crop that they are working on is rape seed in Western Canada. This has some undesirable characteristics at the moment, but they are now breeding new types of oil seeds which will get rid of certain types of fatty acids that tend to make the use of the meal unpleasant. Rape seed is of the mustard family and this has certain characteristics that are not suitable for feeding cattle. They are probably a little

repellent.

This type of work, I feel, is one of the great opportunities for Canada for oil seed crops provided we can develop the kind of crops that are appropriate to this climate, and some of these oil seeds do grow well in northerly climates and with the types of oils that are appropriate, not only to the edible trade but to other trades as well, we will have a tremendous opportunity for export as well as for satisfying domestic requirements.

We obviously have got to get prices down but this can be done because the advances they made in the last five years are absolutely fantastic. They are using great experience on breeding new forms of wheat, and turning that great experience and applying it to new forms of oil seeds.

COMMISSIONER WALLS: One thing that rather surprised me, if my information is correct, is the great increase this last year in the amount of fish oil that was used in margarine in comparison with previous years. I can understand the use of the fish oil but the information I was given was that it was mostly imported. Why in Canada would we have to import fish oil?

MR. MERRY: They use British Columbia fish oil.

COMMISSIONER WALLS: I got this information from British Columbia and understood it was mostly imported. That is why I wanted to ask you why it was necessary, in a country like Canada, we would have to import fish oil. If you say that my information is wrong ----

MR. MERRY: This is the information I was given.

MR. MILLIKEN: I have the figures right here. In 1962, there was two million pounds of fish oil imported into Canada and the British Columbia herring, cod and other oils produced, works out to approximately fifty million.

COMMISSIONER WALLS: Fifty against two. That is my answer, thank you.

THE CHAIRMAN: Is it your contention that if sales tax had not been imposed on margarine, because I see it is about two to three cents on each pound, that production of seed in Canada would actually be greater than it is now? This, I presume, has discouraged production.

MR. MERRY: I think it is a factor, sir. I think it is reasonable to say that if you could make the commodity, as a basic food, more reasonably priced for those who cannot afford other foods, that consumption would increase and this would inevitably lead to a greater potential for the oil seeds which go to make it.

COMMISSIONER WALLS: Is it not a fact that you switch these oils from year to year based on world prices? In other words, the margarine that might contain today a high percentage of soya bean oil might tomorrow contain an equally high percentage of palm oil or coconut oil, depending on world market prices.

MR. MERRY: Inevitably world price of oil plays a very important part, but they are not all interchangeable. It is only, you see, in relatively recent years that we were able to use oils from our northern

climate.

We were always having to rely on oils from tropical lands. It is only, I think, really, in the last 10 or 20 years that there has been any growth of any significance here of soya, or of cotton seed or of peanuts. Prior to that one had to rely on the Orient and the tropical climates.

MR. MILLIKEN: In 1960 91 million pounds of soya bean oil was used in margarine. At that time, fish oil, 12 million; in 1962, 55 million soya, 48 million marine. Soya bean oil in 1960 was very cheap.

COMMISSIONER GRANT: Is it not true that any oils imported, used in the manufacture of margarine, come in free of duty and tax?

MR. MILLIKEN: If they come from a British possession they come in on a free basis.

COMMISSIONER WALLS: Is it not a fact that soya beans come in from the United States duty free?

MR. MILLIKEN: Soya beans do. Soya bean oil for edible purposes is dutiable 20%.

COMMISSIONER GRANT: Do you import the beans and crush them here or do you import the oil?

MR. MILLIKEN: We import the beans. Bean meal, incidentally, comes in from the States duty free, too.

COMMISSIONER GRANT: You get the by-product as well?

MR. MILLIKEN: Yes. When you crush the bean you get oil and meal.

MR. MERRY: The meal is a very important segment

of the revenue from the total beans.

MR. MILLIKEN: The meal is worth two-thirds the value of the soya bean.

COMMISSIONER GRANT: What use has the meal?

MR. MILLIKEN: It has the finest protein ---

COMMISSIONER GRANT: In dairy products?

MR. MILLIKEN: Dairy or in animal feed.

COMMISSIONER GRANT: It is rather an incongruous situation.

MR. MILLIKEN: It is very hard to talk on one hand. My company is one of the larger seed manufacturers.

COMMISSIONER GRANT: So you are supplying the dairy industry with your by-product?

MR. MILLIKEN: Yes.

THE CHAIRMAN: I would like to address one or two questions to the position of the consumer, whom you represent. For my information would you tell me what the retail price in Toronto of a pound of margarine would be? I assume there are different qualities and there is not just one price, and then the retail price of a pound of butter or any other spread there might be.

MR. MERRY: The trouble is, I read in the papers they now say coloured margarine and they are using it as a loss leader and cutting prices right down, so at what they are selling it today is not perhaps relevant. The last time I was in the store I think it was around 30 cents.

THE CHAIRMAN: Margarine?

MR. MERRY: Margarine; 28, 35. Some of the more expensive brands of margarine go as high as 48 cents.

That is one that is made with corn oil. There is no corn oil available in Canada or it has to be imported and that bears the 20% tax. Corn oil margarines are more expensive. They are in the higher bracket of 47 cents to 48 cents.

THE CHAIRMAN: And that includes the 11% sales tax at the manufacturer's level?

MR. MERRY: Yes. I would say it would be reasonable to say that the normal price range would be somewhere around 27 to 37 cents.

ET/ss

THE CHAIRMAN: How about butter?

MISS HYNDMAN: I am not much help, I am afraid, because I do not do any marketing.

THE CHAIRMAN: What is the price of butter?

COMMISSIONER WALLS: 59 cents.

MR. MERRY: Sometimes more.

MISS HYNDMAN: 59 to 75 cents.

COMMISSIONER WALLS: It is not 75.

MR. MERRY: I would say 55 to 59, somewhere in there.

THE CHAIRMAN: Margarine is subject to Provincial sales taxes?

MISS HYNDMAN: No food is.

THE CHAIRMAN: It is exempt the same as other foods?

MISS HYNDMAN: Yes.

THE CHAIRMAN: It has only Federal tax?

MISS HYNDMAN: Yes.

THE CHAIRMAN: Is there any study as to who the consumers of margarine may be; as to what income groups eat margarine as opposed to butter? If there are no studies, is there any suggestion as to who they may be having regard to the different regions of Canada?

MR. MERRY: Those who have margarine for medical reasons would cut across all income levels, and there is a substantial number of these. I think normally we find consumption of margarine in the lower income levels.
I have not seen a recent study on this, but we would anticipate this would be less as you get up in the higher income levels, but there is a substantial use of margarine

possibly for cooking purposes at the upper income level.

However, the great consumption levels would be in the lower income levels. As you go down in income levels so you would get a greater consumption of margarine.

THE CHAIRMAN: I think that would be a reasonable assumption from the difference in the prices, but I was wondering what evidence there is to support it, if there is any. I would assume there would be some. Would it be used in the less prosperous parts of Canada more frequently than in the richer parts of Canada?

MR. MERRY: No province has any statistics on the consumption rate. British Columbia is the only one because of its isolation and differences in its colour. You cannot obtain the consumption rates because most margarine is manufactured in Toronto and you cannot take production figures, so I have never seen any statistics.

I could try to see if any studies have been made and report that to you, but I am not aware of any major differences. I think it is lower in Quebec. I think the consumption of margarine is lower in Quebec. I think it is reasonably obviously higher in urban areas, but it is still subtantial in rural areas and in farm areas.

I will try to obtain some statistics to see whether any surveys have been undertaken which might show these figures.

THE CHAIRMAN: I would be very interested in it.

MR. MERRY: I will see if I can get that for you.

THE CHAIRMAN: Could you also tell us what proportion of the total spreads used in Canada is margarine and whether it has increased and at what rate?

MR. MERRY: I would prefer to give you that in a table, but I can tell you from memory.

MR. MILLIKEN: I have the table here.

MR. MERRY: The total consumption is around 40 pounds. I am usually thinking in terms of pounds per capita.

COMMISSIONER WALLS: Could I put the question perhaps another way? Is it not correct that the average per capita last year of margarine was a fraction under ten pounds per capita as against butter of around sixteen pounds per capita?

THE CHAIRMAN: I think that is a leading question, Mr. Walls.

MR. MERRY: I do not think the D.B.S. produces these figures quite as quickly as that. I have not seen the 1962 figures, but broadly speaking since margarine was available I would say that consumption of margarine was about seven pounds per capita and butter was about twenty.

One observes an immediate reduction in the consumption of butter with the introduction of the support price directly that went in, and consumption of butter fell off and the restrictions on margarine were constant, so the only conclusion we can draw was that the increased high price of butter resulting from the support price had caused the reduction in consumption.

COMMISSIONER GRANT: Consumption of?

MR. MERRY: Of butter.

COMMISSIONER GRANT: I was wondering as a result of the subsidy which resulted in a lower price for butter,

if that resulted in a dropping off in sales of margarine.

MR. MERRY: Oh, yes.

MR. MILLIKEN: It stopped the increase.

COMMISSIONER GRANT: You began to level off?

MR. MILLIKEN: Right.

COMMISSIONER GRANT: Also a question in my mind to ask you: Was there an increase in consumption of margarine in those provinces which permitted coloured margarine to be sold; that is, after the margarine was allowed to be sold as coloured margarine did you enjoy an increase in consumption in those provinces?

MISS HYNDMAN: I have the figures on British Columbia for that. In the year 1951 consumption per capita in British Columbia was 13.25; in 1952 it was only 13.91, and continued about uniformly down to 1958 when it was 11.9. In 1959, it was 13.7 which was just what it was, or approximately what it was in 1957. It rose slightly in 1960 and in 1961, but I think the increase was not greater than in any other province proportionately.

COMMISSIONER GRANT: What year was colouring permitted?

MISS HYNDMAN: 1952.

COMMISSIONER GRANT: In British Columbia?

MISS HYNDMAN: In British Columbia. The figure for 1951 was 13.25. In 1953 it was 13.91, and in 1954 it was 13.62. It went up very slightly.

MR. MERRY: These levels are inevitably higher than the rest of the country as in British Columbia it is pale yellow. It is only in British Columbia and Newfoundland

where it can be made in colour, whatever colour the consumer wants it.

COMMISSIONER WALLS: You mean where it is the colour of the high-priced spread?

MR. MERRY: Yes. They add the same amount of colour as the high-priced spread. However, in the other regions where the more recent legislation has been introduced, the colour is not as appetizing and this has not led, as far as we can determine, to any increase.

In point of fact, in Manitoba the experience in the last two years has indicated that the deep colour which some people have referred to as orange but which I don't know --- colour is difficult to define ---- this is now accounting for about 60% of the sales and the trade is forced to carry both that and the white colour which is now accounting for 40% of the sales.

In Manitoba, for example, I think it is reasonable to say that this particular piece of legislation did not lead to a greater consumption, whereas it had been constant in British Columbia, but it is at a higher level than in the rest of Canada.

COMMISSIONER PERRY: I just have one question. It is very trivial because I am sure the problem has been overcome long ago, but is there any difficulty of definition here? Is margarine a generally understood term to the extent that it could be used as a comprehensive concept for all the products that are involved here?

MISS HYNDMAN: It is defined in legislation in all the provinces where there are restrictions upon the manufacture and sale of margarine. The definition is

usually related to it being a substitute for butter or any dairy product, and dairy product is wide in its definition and includes, for some reason, sherbet.

COMMISSIONER PERRY: Is this the concept that the Department of National Revenue uses in taxing these products that are called margarine?

MISS HYNDMAN: I cannot answer that. Shortening is free of tax.

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MR. MERRY: It is used for the same purpose as butter in cooking and yet it is not taxed, so we have many anomalies.

THE CHAIRMAN: To make the record complete, can you tell us what the derivation of the term "margarine" is?

MR. MERRY: Yes, sir. Originally, margarine was first produced by a Frenchman called Mège-Mouriés at the instance of Napoleon, who found it expensive to travel his armies about and wanted sources of food, so he put this scientist to work to see whether he could reproduce butter fat.

He, Mège-Mouriés, obtained some oleo oil and he examined it. He was a chemist, and he rendered it and subsequently, through a sieve, I believe, or some container, he found some globules of the oil of fat coming out from this casing, and these came out in large white drops.

As you will, of course, know the Greek word for a pearl is marguerite, and so as they thought they looked like pearls, they thought marguerite was an appropriate name for these white globules, and I believe this is the origin of how the name was given to this food margarine. As a matter of fact, it is generally in Europe that the "g" is hard. It is called margarine over there where we use the word margarine.

It was not really developed until the turn of the century, until the twenties, when they got hydrogenation and were able to harden the vegetable oils from the tropics that this oil became such an admirable

food, when we could utilize so many different types of oils.

THE CHAIRMAN: Thank you. That is very interesting, indeed. I think unless there are more questions that is a pretty satisfactory note on which to end our questioning. Miss Hyndman, have you anything else to put before us?

MISS HYNDMAN: No, I think not, thank you. We will see if we can get these statistics for you.

THE CHAIRMAN: We will be delighted if you are able to do that. Thank you very much for a most able and an almost impassioned written submission to us. You have answered all our questions very fully indeed and I think we know your story. We must consider it, and I can assure you we will most seriously. Thank you indeed.

Mr. Secretary, I think we can now stand over until 9.30 on Monday morning.

THE SECRETARY: That is right. The College of General Practice of Canada, followed by the Pied Piper Film Company.

--- Adjournment

ROYAL COMMISSION

ON

TAXATION

HEARINGS

HELD AT
TORONTO
ONT.

VOLUME No.: 19

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ROYAL COMMISSION ON TAXATION

Hearing held in Howard Ferguson Auditorium, Sir Daniel Wilson Residence of University College, University of Toronto, Toronto, Ontario, on Monday, the 13th day of May, 1963.

COMMISSION:

MR. KENNETH LeM. CARTER -- Chairman

MR. J. HARVEY PERRY

MR. A. EMILE BEAUVAIS

MR. DONALD G. GRANT

MRS. S.M. MILNE

MR. CHARLES E.S. WALLS

LEGAL ADVISER:

MR. J.L. STEWART, Q.C.

RESEARCH DIRECTOR:

PROF. D.G. HARTLE

SECRETARY:

MR. G.L. BENNETT

ROYAL COMMISSION ON TAXATION

HEARINGS HELD AT THE CITY OF TORONTO, ONTARIO

May 13, 1963

TOPICAL INDEX VOLUME No. 19

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INDEX OF EXHIBITS

Toronto, Ontario,
Monday,
May 13th, 1963.

A/PB/dpw

--- On commencing at 9.30 a.m.

THE CHAIRMAN: Mr. Secretary, I think we are ready. It is now 9.30. Would you introduce our visitors?

THE SECRETARY: Good morning Mr. Chairman and Commissioners. This morning we have with us officials from the College of General Practice of Canada. Dr. J.T. McCullough is President. He will introduce his colleagues and speak to the brief, which I will enter into the record as Exhibit No. 59.

--- EXHIBIT NO. 59: Submission of The College of General Practice of Canada.

SUBMISSION OF THE COLLEGE OF GENERAL PRACTICE OF CANADA

Appearances: Dr. J.T. McCullough
Mr. J.W. Kieran
Dr. W.V. Johnston
Mr. Bruno Fortin

THE CHAIRMAN: Good morning, sir. Would you care to say a few words to us before we deal with your submission? You don't need to read it to us. We have already read it and we have a few questions we would like to put. First of all, you would probably like to introduce your colleagues.

DR. McCULLOUGH: Mr. Chairman and members of the Commission, may I present Dr. Johnston, Executive Director of the College; Mr. Bruno Fortin, the Assistant Administrator, and Mr. Jon Kieran, public relations counsel.

We are pleased, Mr. Chairman, to have the opportunity to speak to this brief. I will be very short in my

remarks because, as you have indicated, you have copies and have read it. I think the only part I would like to stress as this point before you ask your questions is that we would like to differentiate between post-graduate education for the purposes of attaining a higher degree and the post-graduate education of the type which we mention in our brief which is essentially, I believe, in business terms, the maintenance and keeping in repair of an already existing asset.

It is one of the rules, as you will note in our brief, of our organization that in order to maintain membership one must do a certain amount of post-graduate education in each given period. Since this is not for the purpose of obtaining a further degree but rather for keeping in repair the existing competence of the doctor we feel that it is a legitimate subject for your consideration. It has been conservatively estimated that the fund of knowledge is possibly doubled every ten years. That, at least, is the statement of well-known medical educators. It has been the contention of our College from the outset that no individual can be of maximum service to his patient or keep himself up to date without continuing study, hence the requirement of our College that this must be done.

Mr. Chairman, you have already the brief before you. If it suits your purposes we will submit ourselves to your questions at this point.

THE CHAIRMAN: Thank you. Now, you state that your membership is now 2,375.

DR. McCULLOUGH: That is correct, sir.

THE CHAIRMAN: I would assume there are a lot of

general practitioners in the country who are not members of your College; am I correct?

DR. McCULLOUGH: That is right.

THE CHAIRMAN: But they cannot secure hospital posts if they are not members, or certain hospital posts?

DR. McCULLOUGH: There are some hospitals where membership in the College is a requisite, one of the criteria for membership in the actual staff of the hospital.

THE CHAIRMAN: There is a standard which is achieved by certain hospitals where they become accredited to a certain standard, as I recall. Does that accrediting require that their general practitioners are members of your College?

DR. McCULLOUGH: No, that is not necessarily so, sir.

THE CHAIRMAN: That would be most desirable, in your view?

DR. McCULLOUGH: That would be most desirable. Dr. Johnston would like to speak to that, sir.

DR. JOHNSTON: The Canadian Council of Hospital Accreditation to which you refer highly recommends there be a Department of General Practice in each hospital and as Dr. McCullough says there are a number of hospitals which make it mandatory for the individual doctors, general practitioners, to be members of the College of General Practice. This is a voluntary thing at the moment. This is not a policy of the College, actually.

THE CHAIRMAN: Do you, in any way, encourage your members or, in fact, require your members to indicate

their membership in your College for public relations value?

DR. JOHNSTON: Oh, yes, the only medical directory we know of; at least, the only medical directory there is in Canada lists our members with the letters M.C.G.P. - Member, College of General Practice. We also issue a certificate that they hang on the wall of their office if they wish to do so.

THE CHAIRMAN: As a member of the general public choosing a general practitioner would I have the opportunity of knowing whether he was a member of your College?

DR. JOHNSTON: We rather like to think you would ask him or you could ask us. We get requests very often about this, both from referring doctors and from patients.

THE CHAIRMAN: Do you?

DR. JOHNSTON: If somebody moves here from Sherbrooke, Quebec, it is not uncommon at all that they 'phone us and ask us for the name of a good general practitioner. We don't say a man is good or bad. We say, "Here are a number of doctors in your area who are members of the College."

THE CHAIRMAN: Is there a similar organization to yours elsewhere in the world? Is there the same sort of thing in the United States or United Kingdom?

DR. JOHNSTON: We are the only professional body in Canada with post-graduate studies mandatory, but there is a similar organization in the United States, the American Academy of General Practice. We also have them in England and Australia. There are about twelve countries

with national organizations of general practice. However, I believe we and the American organization are the only two with mandatory study requirements.

THE CHAIRMAN: Do any other skills require that they be brought up to date annually; for instance, surgeons?

DR. McCULLOUGH: If I understood you correctly when you ask that, you mean any other organization which demands upgrading. We are the only ones.

COMMISSIONER WALLS: Following along the questions you have been placing I would like some further clarification. As I understand from your paragraph 6 the parent body is the Canadian Medical Association who formed, in 1929, the Royal College of Physicians and Surgeons, and then established the College of General Practice of Canada. Have they set up any other subsidiary bodies and is there any competitiveness between these bodies for membership? In other words is there any competitiveness between your body and the College of Physicians and Surgeons?

DR. McCULLOUGH: I think Dr. Johnston would answer that.

DR. JOHNSTON: It isn't competitive at all. The Royal College of Physicians as stated here was set up in 1929 as a standard-setting body for the specialties, and they gave them a grant, I think, of $3,500 just to establish them. They are completely independent. The same thing happened in 1954; the Canadian Medical Association set us up as a standard-setting body as the general physicians' educational organization. We are entirely independent of the Canadian Medical Association. Does

that answer it, sir?

COMMISSIONER WALLS: Yes, it does. May I go ahead?

THE CHAIRMAN: Yes.

DR. JOHNSTON: We are not competitive at all. We are a voluntary organization. So is the Canadian Medical Association.

COMMISSIONER WALLS: You have mentioned, both in your brief and when you were answering the Chairman, of your upgrading of education by special courses. I notice on page 3 the only requisite for continued membership is 100 hours of study over a two-year period. One hundred hours over two years is less than one hour a week. Surely that is not a very high standard to request for your maintenance?

DR. JOHNSTON: Considering there hasn't been any up to this time, considering that at least 60 of these hours must be in planned refresher courses which means about two weeks - we recommend two weeks every two years and he is away doing an intensive course. We think that is fairly adequate.

COMMISSIONER WALLS: I didn't see that in your brief; where that was compulsory.

DR. JOHNSTON: This is compulsory. He reports every two years and we are not playing with it because we drop at least 75 men every year because of lack of study requirement across Canada. They are submitted every two years and reviewed by committees and their report guides us as to whether we give them continuing membership.

COMMISSIONER WALLS: Would it help, in regard to refresher courses, if, in place of the allowance of two conventions per year, it was one refresher course? In other words, one refresher course would be a longer period than any two conventions, wouldn't it?

DR. McCULLOUGH: I think, sir, that varies considerably. In this connection possibly it would be helpful to the Commission if we were to submit one of our outlines on post-graduate requirements. I can see while this seems plain enough to us we have left the Commission a little in doubt. We do have an outline of post-graduate requirements and as Dr. Johnston has indicated we have some 60 hours in Category A and some 40 hours in Category B.

Category B would include such things as tape recorders, which incidentally the College publishes itself, tape recordings and phonograph discs. Category A is a tougher one and a great deal of the work in Category A is taken by a man who will go to a course here in Sunnybrook. A great many of our men go to Buffalo, to Chicago and other places. The common procedure at these courses is to have a limited registration and the charge is $15 a day. Those are the types of courses that we consider refresher courses.

The conventions we tend to rate a little lower. As we are all aware there are certain social functions in connection with conventions which we think make them a cut lower, and it is this other thing we are particularly concerned with. For instance, a man might take three days in electrocardiography and the following year one, two, three, four or five days in something else. It is a

different category than attending conventions.

COMMISSIONER WALLS: Is it likely that a general practitioner would both take a refresher course in one year as well as attending two conventions in the same year?

DR. McCULLOUGH: I think they are quite different things, sir. Actually, the tendency, I believe, is getting to downrate the convention in favour of the other. As an example of that I can point out that the American Academy of General Practice rates as Category 1 only their own meeting which is specifically put on with the needs of their members in mind, and they will not even give Category I to the meeting of the American Medical Association.

DR. JOHNSTON: We are thinking of such courses as the Mayo Clinic which puts on a five-day course at least once a year. We had some 35 of our members down this last Spring. I am also thinking of courses in Buffalo for five days or the courses in the Royal Victoria Hospital in Montreal. We also are thinking of courses which we were the first to start in Canada by which to four hospitals in Canada any general practitioner can go any time in the year and get a two-week concentrated course on any subject he wants. There are four hospitals that we have; Dalhousie, Montreal General, Saskatoon and St. Lukes in Montreal. These are concentrated courses of two to three weeks, and a good many of our men are taking them. You just give them your subject, tell them the time you want to go and they name a mentor who will make sure you get what you want.

This type of refresher course is the one type we are particularly thinking we would like to have some relief for in taxation.

MR. KIERAN: Mr. Chairman, could I discuss a point that Commissioner Walls raised? The question on the hours of studying; at a scientific course the physician might reasonably expect to think and talk medicine for a period of 8 or 10 or 12 or 16 hours a day but the credits he would be allowed would be hour for hour of the lectures that he attended. The reading he did to prepare for the lecture and the discussion that he had following the lecture would not be considered as hours so that a man might attend, as we recently had in Edmonton, a four-day convention and he would obtain somewhere in the neighbourhood of 16 hours a day discussion. It is not a question of getting 100 hours in three days of concentrated work. It is a bit more difficult than that.

COMMISSIONER WALLS: I think you will recognize your brief didn't bring this point out.

MR. KIERAN: We regret this oversight.

THE CHAIRMAN: I am not quite clear. The post-graduate studies; I take it that the refresher courses are intended to be every two years, two weeks per course; am I right?

DR. McCULLOUGH: The evaluation is on a two-year basis because of the inconvenience of possibly getting it in right within the calendar but it averages out to 50 hours per year.

THE CHAIRMAN: Which would be 60 hours of refresher course and 40 hours in study.

DR. McCULLOUGH: Category B, a copy of which Dr. Johnston has got here, has a number of sub-divisions. There are hospital scientific meetings and recorded medical lectures, which I have already mentioned and such things as case reports, research and so on. This is not the thing the College is particularly concerned with. It is the 60 hours in the upper bracket that is important.

COMMISSIONER MILNE: I had a number of questions written down which have already been brought forward. There is one thing I am wondering about. At the conventions, in the scientific sessions that would be held where there would be hours accredited, would these be more considered as specialist or do they have the categories that you have listed?

DR. McCULLOUGH: Dr. Johnston will answer.

DR. JOHNSTON: We have found in our own conventions we insist all our speakers speak on subjects that the general physician wishes to know. However, it is very difficult to make a course too fancy because we find that quite a few of our men really want to know quite a bit of the technical detail, so it is very difficult to divide, to classify courses according to that standpoint.

B/MR/ss

DR. JOHNSTON: Does that answer your question?

COMMISSIONER MILNE: Yes, I think so. I just had one other question in mind, and possibly you could clarify it for me quite easily. You mentioned the hundred hours in every two-year period. You mentioned that to remain in active membership, the physician must submit his study record every two years, to remain in good standing. If the general practitioner does not attend a post graduate refresher course in the places you have indicated they are available, in what manner does he maintain this qualification if he cannot get away, as conditions make it impossible, whether economic reasons or other, for him to attend a post graduate refresher course? How can he maintain his membership on his own? What possibilities exist?

DR. JOHNSTON: He cannot maintain it. If he does not submit the required amount of studies, if he finds, and this happens, that for various reasons he cannot take a course and get away for two weeks, say, every two years or every two-year period, if he appeals to us for a year of grace, we will grant it if it looks reasonable. He may have one more year.

If he doesn't do anything in that year, then he is out.

COMMISSIONER GRANT: There are two points on which I should like to have your further elaboration. One is that when you deal with the term "refresher course" and then almost in the same breath refer to"post graduate courses", I assume you would have to have in any amendment that was contemplated to Section 11 (1) Subsection (I)(A)

of the Act a very clear understanding as to what is meant by these courses, whether it is a refresher course or whether it is a post graduate study course.

The very term "post graduate" I think, as you yourself mentioned a little earlier, conjures in the mind a different type of thing entirely from a refresher course because a post graduate course in any phase of learning, contemplates, I should think, a going on for either an accredited diploma or a degree, and I do not believe that your College contemplates that, does it?

DR. McCULLOUGH: Mr. Grant, I think maybe we are in a question of semantics here. Certainly one conception of post graduate education is, I think, any learning following graduation. I see the point on which you have difficulty.

One thinks of a post graduate school and a university as a school which is going to grant a higher qualification. Now, the term "refresher courses" is not so well established. It is commonly used. It does not mean anything in particular except something that gets you up to date, and I think possibly the difficulty could be resolved if we would state for what purpose this work is taken.

If it is for the purpose of attending a higher degree, another qualification, certainly if I understand the term correctly, it is the creation of a capital asset, whereas, if you take this work, this undoubtedly post graduate work because it is taken after graduation, call it what you like, the purpose of it is simply to maintain and repair your knowledge as a physician. I should think it

is a little difficult to get a definition. Possibly Mr. Kieran would care to elaborate on that.

MR. KIERAN: Mr. Chairman, there is a point of ambiguity here. In breaking new ground, as the College has, in maintaining or establishing, and then maintaining the criteria for what constitutes an up to date attitude to professional responsibility, we have sometimes tended to use words as they came to us without giving them as much thought as we might at that time have done.

The physician tends to think of the work he does, to keep abreast of medicine, as post graduate study. I can appreciate Mr. Grant's perplexity. This is a term normally used for the work directed to a higher degree. It is in common practice, among working physicians, to think of the clinical days they attend, and the lectures that they organize for themselves at hospitals as post graduate studies, so I think we have possibly poached on somebody else's semantic territory in using this word, but we tend to use it almost --- we do use it interchangeably with refresher course in discussions with doctors at the present time.

DR. McCULLOUGH: As a matter of fact, Mr. Grant, I note that the leaflet, which we will leave with you, is entitled "The Guide For Estimation of Post Graduate Study Credits."

COMMISSIONER GRANT: I just want to refer to Section 18 of your brief and the Chairman has gone into that. I would like to get a little further explanation. It seems to me that Section 18, as it reads, is rather broad in its application.

I will read it:

"Unquestionably, membership on the active staff of some hospital is a vital requirement for virtually all Canadian general practitioners. Without hospital facilities few general physicians can practise at any 'depth'."

Now, the latter sentence is one with which one would have no difficulty in agreeing. It is the first sentence of that section, that a hospital, as I understand it, has certain accredited members of the profession who then become members of the hospital staff after they have passed the usual screening, let us say.

Now, do you contemplate that all the members of your College would be members of a hospital staff?

DR. McCULLOUGH: Mr. Commissioner, I think that would certainly be a desideratum. We recognize, of course, that people who attend have their membership, but we feel, as I see you agree, with the practise of modern medicine one must have recourse to a hospital and we have gone far past the days when the family physician out in the country would simply be expected to follow the old European dictum of: To heal occasionally; to relieve frequently; and to comfort always.

I do not think we can go back to that, and to practise any other type of medicine you must have a hospital.

Another point that comes into it is the association with your professional colleagues. I think a man who keeps himself remote from a hospital becomes a little bit of a hermit and I think we agree that hermits all

become a little odd. I think that the doctor who never sees the inside of a hospital would become a little odd too.

I would like Dr. Johnston to add a few words to that.

DR. JOHNSTON: I think we have stressed, or used the words "active staff" when we could have said "staff". "Unquestionably, membership on the staff of some hospital is a vital requirement..."

We do not anticipate that we will have all our members on active staff, by any means. Nearly all staffs of responsible hospitals have at least two categories: active and associate, or senior and junior, and this is proper; particularly is the junior staff or the associate membership for the new man coming into the community to see how they do, to test them, to judge them.

We would not for a moment think that all members should be on the active staff. That, I think, is not exactly correct that we should say "unquestionably, membership on the active staff of some hospital is a vital requirement...", but then it depends. We would not think of dictating to any hospital who should be on, or how they organize their staff. That is the responsibility of every hospital. They are the people that know their doctors.

COMMISSIONER GRANT: At the present time it is not necessary that a general practitioner be a member of a College in order to gain an appointment to the staff of the hospital?

DR. JOHNSTON: Oh, no. There are about twenty large general hospitals in Canada who have mandatory

requirements that their members be members of the College of General Practice, and this is steadily increasing, but this is a local development for the simple reason that they said this: We are the only people setting standards for general practice, the same as the Royal College have done for specialties.

COMMISSIONER GRANT: It simplifies the problem as to who will be chosen to be staff members too.

DR. JOHNSTON: It simplifies the problem for the medical staff, for everybody.

THE CHAIRMAN: It seems to me that if one proceeds to a cure for the present difficulty to which you direct us, that probably means words added to the section of the Act which provides for two conventions. That is one way to approach it. If that were done, I just wondered whether it should give a general right to all refresher courses to anybody in business, or in the professions, or only to those which are mandatory in order to maintain one's position within his profession.

As far as you people are concerned the latter would be perfectly satisfactory. I think that is what you are endeavouring to reach for. I am wondering if that would be too restrictive. Have you thought of that at all, whether the matter should be open generally?

MR. KIERAN: Mr. Chairman, considerable thought has been devoted to that point and it seems to be the attitude, unanimously, among College officers and directors that although the College was the first professional body to establish some formal control over the updating of the professional training, it is predicted that other bodies

will follow in these areas and there are broad areas for leadership in the medical profession that feel that accounting societies, dental societies, legal societies will at some time at least wish to investigate this very seriously.

I think it is no secret that the colleges had representations from the officers of a number of them seeking counsel and advice and just examining this experiment. I think that the College makes the brief to this Commission on a point of principle. We could not see, in any of our studies, how the principle would differ, whether the professional point was that of law or accounting, where it discussed this question of hospital appointments, because at the present time having established some criteria as to what can be used to measure keeping up to date, however the measurement is made, we are not satisfied it is perfect, people are assuming that it is better than nothing and using it and therefore damage is being done to the people who do not keep up to date in the other professions.

In answer to your question, the College has given a lot of thought to this and it would ask that the tax relief be given on a point of principle to any professional or occupational body that was willing to subject the bona fides to whatever authority was set up to authorize it.

THE CHAIRMAN: But not necessarily making it a requirement to maintain standards.

MR. KIERAN: We do not feel membership in a professional body would necessarily be a vital criteria for

a person who validly wanted to keep up to date.

DR. JOHNSTON: We have a little side issue in this. We are getting more and more control over --- I would not say control over these refresher courses, in that more and more of them are asking us to assess them before they are announced and this is rather interesting, because they want to get an appointment and we have now,
3 in most Provinces, set precisely the number of hours our men will get for attending them if we approve of those courses.

THE CHAIRMAN: Those courses are established by whom?

DR. JOHNSTON: We establish some ourselves. We would rather like other people to do it if they are done well, because it is less work.

In other words, we encourage universities, hospitals, to establish courses and we would like them to do it and more of them are asking us to assess them first before they announce it and we like on the announcement to state approved for so many hours post study credit for the College, but it is also for all general practitioners, not just ourselves.

COMMISSIONER GRANT: You said there are four centres in Canada now which are giving refresher courses.

DR. JOHNSTON: Yes.

COMMISSIONER GRANT: Did I understand you to say that?

DR. JOHNSTON: Yes. These were initiated by one of our members in the University of Montreal where they have a very good refresher course and they set it up so

that any of our members can attend at any time of the year, and it must be at least two weeks and can be three weeks in any subject you wish.

COMMISSIONER GRANT: That is as far as Montreal is concerned?

DR. JOHNSTON: This now includes Dalhousie in Halifax; University of Montreal; St. Luke's in Montreal; University of Saskatchewan in Saskatoon.

We think there will be others come in under this umbrella. We scattered these over the country to make it more accessible to our members.

COMMISSIONER GRANT: These refresher courses are not really organized by your College?

DR. JOHNSTON: The university can organize better courses than we can. They are in the business.

COMMISSIONER GRANT: Do I understand that these courses are organized in particular for the general practitioner?

DR. JOHNSTON: That is right. Only.

COMMISSIONER GRANT: They are not for any other form of specialized medicine?

DR. JOHNSTON: No.

COMMISSIONER GRANT: And each course, wherever it may be, runs for six weeks?

DR. JOHNSTON: No. These that you get in these four hospitals are two or three weeks. Most of our courses at the moment run to three to five days. We find anything beyond two weeks is not very popular. It has got limited popularity. Most have difficulty leaving their work.

COMMISSIONER WALLS: What limitation have you got

on the doctors selecting his own course and where he will go for it? In other words, what I am trying to get at: Supposing one of the general practitioners decided that a two-week course in the Bahamas would be appropriate. How would you know whether that was of benefit to his future medical career?

DR. JOHNSTON: I don't think we have had any in the Bahamas, although they have them there. We would have to see a copy of the program.

What I am thinking of is we allow complete latitude in choosing a course. For instance, if a man wants to attend a course in Arnprior in aviation medicine, this may look a little bizarre, but it isn't. He learns a very great deal about cardiac diseases, for instance. You cannot attend one of these courses without learning a great deal about general medicine as well, so we allow complete latitude and we find it has not been abused.

We had one man go to England for two weeks on an award. He got approval for this before he went. He took it in a London hospital.

THE CHAIRMAN: What we are, of course, pondering is the extent of limitation that should be placed in the law. What restrictions should be imposed. If it is necessary to restrict the number of conventions to two, presumably then it is similarly necessary to restrict the number of refresher courses or the number of days, or the expenditure, or something of that kind.

C/ET/dpw

DR. JOHNSTON: I think it is fair to say we debated whether we would put this in the brief or not or whether we would limit it to North America.

MR. KIERAN: As Dr. Johnston says, Mr. Chairman, we debated whether to give counsel to the Commission on this point. We felt that our paragraph 27 in which we offered any assistance and help to the Commission at any time would, in effect, cover that point.

The College does not feel that it wants to pose an unreasonable question to the Commission, and if, in the deliberations of the Commission, limitations as to geography, as to days or as to total expenditure were to be included, the College would not feel that this was untoward.

THE CHAIRMAN: Would you care to continue what you have to say on this now or would you rather give it to us later on in reply to a request?

MR. KIERAN: I would prefer, Mr. Chairman, if we might provide you with a formal reply rather than an extemporaneous one.

THE CHAIRMAN: I think we would like to put it to you right now and leave the choice to you as to what limitations you think should be imposed on refresher courses, having regard to your own profession. Either reply now or take your time. It is your choice.

DR. McCULLOUGH: It would seem to me that we have some guidance in doing this. We require a number of hours which we have stated, and obviously we could hardly ask for more relief than the equivalent number of hours. In a common day on one of these courses you would put in possibly five to eight hours. When you get over six hours

it gets to be pretty long. That is tough going when you try to study more than six hours, although I have been to some where they ran you from nine in the morning to five-thirty in the afternoon with two ten-minute coffee breaks and one hour for lunch, at which time they ask questions. That is quite heavy going.

Half-a-dozen hours a day would be a good average, and obviously we could hardly ask for more than one hundred hours every two years.

On the matter of geographic limitation - Dr. Johnston has mentioned the matter - I do not think there should be any great difficulty. Once a man goes out of North America for a five-day course I will begin to suspect he had other things in mind. He can certainly get five-day courses without going off dry land.

THE CHAIRMAN: Is there anything else you want to take into consideration?

DR. JOHNSTON: The matter of actual cost.

THE CHAIRMAN: I was wondering about that.

DR. JOHNSTON: I did not know whether you wanted that included; if you put a limit on that or not.

THE CHAIRMAN: If there were to be a limit on costs, what area would it be? Did you mention $15 a day?

DR. McCULLOUGH: The present going rate for many of these things is roughly about $15 a day. That is the straight tuition fee, of course; registration fee, if you like. What is going to happen to that in the future I have no idea. For certain it used to be cheaper. For some of these courses that run five days you will see a figure of $75 quoted.

For the courses in Buffalo with which we, in this area, are rather familiar, the usual tariff is $15 a day, and added to that, of course, you will have your per diem allowance and travelling expenses.

THE CHAIRMAN: I think we understand your proposition to us. I will undertake that the Commission will examine it further and carefully. We are very grateful to you indeed for bringing this problem to our attention and setting it before us so very clearly. Thank you.

DR. JOHNSTON: Thank you very much, sir.

DR. McCULLOUGH: Dr. Johnston has brought up this matter: may I ask do you wish us to make a further submission relative to this limitation? I think question 27 was the one that was mentioned.

THE CHAIRMAN: Yes, that is correct. No, I think I may say for all of us that unless you receive other notice, we do not. If we find that something is bothering us, we will be in touch with you through our Secretary.

DR. McCULLOUGH: Thank you very much.

THE CHAIRMAN: We will stand over for ten minutes.

--- Short Recess

THE CHAIRMAN: Mr. Secretary, would you care to introduce our visitors to us?

THE SECRETARY: Yes, Mr. Chairman. At this time a brief from Pied Piper Films Limited. Mr. A. Wargon, executive producer of Pied Piper Films Limited is here to

speak to the brief, and with him, Mr. Eric Ford of Clarkson, Gordon and Company. I would like to enter this brief into the record as Exhibit No. 60.

--- EXHIBIT NO. 60: Submission of Pied Piper Films Limited.

SUBMISSION OF PIED PIPER FILMS LIMITED

Appearances: Mr. Allan Wargon
Mr. Eric Ford
Mr. D.R. Wardlaw, Q.C.

THE CHAIRMAN: Good morning Mr. Wargon and gentlemen. Usually it is our practice to invite people appearing before us to speak to their submission, summarize it, or elaborate on it or do whatever they please. You may take it we have all read it. We have written down a few questions to put to you. In fact, before addressing our questions, we would be very glad to give you an opportunity to say anything that you care to. Would you care to speak to the submission, Mr. Wargon? You do not need to stand unless you wish to do so.

MR. WARGON: If I may, I will remain seated; I have been working very hard. Mr. Chairman, gentlemen, a film production is a very expensive product because of the complexities involved. Therefore, a film industry is a very expensive industry requiring a large amount of revenue to sustain it.

The situation in Canada is this: we do not have sufficient population to sustain a motion picture industry unless all foreign competition were barred, which is unthinkable in view of our social and economic history and proximity to the United States.

Therefore, it follows that if the Canadian producer is to produce films of a quality which will sell in the world market, and he must do so in order to obtain necessary revenue to produce at all, he has to compete with foreign producers, and primarily United States producers.

Now, that was the situation in which our company found itself when we decided to make a step into the world market. I should explain, too, that we are here not as the chosen representatives of the industry; simply as a private company finding ourselves in a situation which we believe warrants the interest of the Commission.

If I might briefly tell you what we have done. We have produced, or still completing, production of a series of 39 half-hour films in colour of a quality which we expect will sell successfully in the world market. There is every indication that the series will be both artistic and a financial success.

COMMISSIONER WALLS: Could I just interject here? Are these documentaries?

MR. WARGON: No. These are entertainment films.

THE CHAIRMAN: For TV?

MR. WARGON: For television, yes. On the artistic side we have entered one in the Cannes Festival, and we have been advised that it has been put on the program, which means it is in the running, which is in itself, perhaps, nothing more than a small indication, possibly, it has some artistic merit. We expect that it will be commercially successful.

We hope to go on producing in Canada, and

while the nature of the industry is perhaps outside the scope of the Commission, I do wish to say, because it is a problem which confronts all Canadians and has confronted us a long time: that is the drain of talent out of Canada. This is an industry which provides an opportunity for talent. Top level talent.

For a year we have employed writers, directors, musicians and people whose background has often been outside of Canada as it has to be because there are no opportunities here. We have kept them here and we have provided them with work that they could do and do happily in their own country. I submit that this is of some importance to Canada.

Now, because of the tax situation confronting the film industry we find ourselves in a position where, if we are going to go on producing in Canada, we are
2 defeated before we begin. We cannot hope to survive except by resorting to evasive measures, which we feel are not in the best interests of this country.

THE CHAIRMAN: Will you tell us a little more about your industry and about your own company? Is the industry the entire film industry or is it TV films?

MR. WARGON: Our company experience has been only in the production of TV films. That is not to say that we may not next week begin production of theatrical film. Opportunities lie in TV film, and we have followed those opportunities to date.

I might also say in producing the series which we are now bringing to completion, we have of necessity followed a pioneer course. We have done a good many

things for the first time, and in a very small way we have made some history. It is the first time, we believe, that Canadian banks have invested in a film industry. We were offered financing from the U.S. There were offers to finance the production entirely. We resisted those offers because we wanted to keep the control Canadian, and we were successful in keeping it Canadian through the investment of Canadian banks; as I say, for the first time ever.

All this has been done. I think it has been done successfully. I think the result is a satisfying result, and the accomplishments have been good accomplishments, but we cannot go on under the present tax situation except, as I say, by resorting to evasive measures which we feel are undesirable.

THE CHAIRMAN: How many companies would there be in your industry?

MR. WARGON: I cannot answer that with certainty. I do not know. There are possibly half-a-dozen companies which might be called major companies, and I am using major in the sense that they would have a volume, an annual volume of business which would exceed half-a-million dollars.

THE CHAIRMAN: Crawley Films would be a competitor of yours, would they not?

MR. WARGON: Yes, they would.

THE CHAIRMAN: Your own company started when? Is it a new company?

MR. WARGON: Yes, it is a new company. It was incorporated in May, 1960.

THE CHAIRMAN: Presumably it is a private company?

MR. WARGON: It is a private company.

COMMISSIONER MILNE: When you speak about the help you had from Canadian banks, would that be banks as such or I.D.B.?

MR. WARGON: I.D.B. is one of the banks, and the other is the commercial bank, chartered bank.

COMMISSIONER WALLS: Insofar as the revenue that you are already gathering from foreign movies, do you seriously think that in dealing with movies, that outside of documentaries, Canadian producers should be encouraged by tax laws to compete with the two big English-speaking film countries, like the U.K. and U.S.? In a country that is this small can we even, by tax concessions, hope to compete?

MR. WARGON: Well, we have shown, if I may say so, in the experience of our company that we are able to compete artistically and commercially and technically. We cannot compete under tax legislation as it now exists.

COMMISSIONER WALLS: Have you not been entirely operating on a video-tape basis?

MR. WARGON: No, not at all. Our production has been entirely on motion picture film. Video tape is a magnetic film. There is basically no difference in the approach to production. There are some technical differences. The difference primarily is when it comes to distribution. There are very few broadcasting stations that can broadcast video tape. It is limited almost entirely to the main centres where the network originates;

regional network originates.

COMMISSIONER WALLS: Is that the reason 60% depreciation is given on film as against 100% on video because of the limitation of the extent to which video can be re-used in comparison with the original negative and the number of prints that can be used on a movie in many cases, I believe, up to ten years later?

MR. WARGON: That may have been the reason that that legislation was enacted but it is no longer the case because now copies can be made from video tape onto film in much the same way as copies are made from film negatives, and these copies are now being successfully distributed. I fail to see the distinction which has been made in establishing 60% for film and 100% for video tape.

THE CHAIRMAN: The durability of one is the same as the other; is that right?

MR. WARGON: Yes.

THE CHAIRMAN: Approximately?

MR. WARGON: One would have to be a technical expert to answer that.

THE CHAIRMAN: There is no great difference?

MR. WARGON: There is no real difference in practice except, if I may say so, as regards colour. Video tape is capable of rendering colour. It is not being used yet to any great extent but improvements are being made daily, and we expect shortly that it will be used in colour as well as black and white.

COMMISSIONER WALLS: You can use a video tape ten years from now just the same way as you can use a

film negative?

MR. WARGON: Yes, I believe so.

COMMISSIONER GRANT: As to the cost of production of those half-hour films which you recently made, are you able to call on a pool of actors for that, or do you have to pay them for each assignment or do you have to retain them on your staff over a longer period than the course of producing the film?

MR. WARGON: We have made 39 films in the entire series. There is some completion still to be done. The star, the leading performer, was retained under a special agreement. The other people we were able to call upon from the pool of Canadian acting talent which is quite resilient. We do not have to retain the others. We paid them for each individual appearance.

COMMISSIONER GRANT: So the success of your industry in Canada, because of the limited local market, depends, to an extent, I suppose, on your ability to keep down your production costs?

MR. WARGON: Yes, like any industry, production cost is very important, but we cannot produce for very much less than American producers can. This is a myth that everything is cheaper in Canada. It is not. We pay our talent just as much or virtually as much. In some cases we may pay a little less for service, but the services are less efficient because we do not have the great pool of services which exists in the U.S. I would say virtually the operating costs are comparable.

D/PB/ss

COMMISSIONER GRANT: Of your 39 productions to date, what international success have they had?

MR. WARGON: They have been sold in England. They have been sold in Australia and sales are now being negotiated in the United States. They are being translated into French and will be seen in France. It is contemplated that they will be translated in German, Spanish, and Japanese. In other words,the indications are that these will be successful.

THE CHAIRMAN: You have completed those and you are proceeding to production of a new series?

MR. WARGON: We haven't entirely completed them. There is a little more work to do finishing them up.

THE CHAIRMAN: You are planning your next series?

MR. WARGON: We are planning another series.

COMMISSIONER GRANT: There is no call for colour?

MR. WARGON: These are in colour.

COMMISSIONER GRANT: They are in colour?

MR. WARGON: Yes.

THE CHAIRMAN: Dealing only with your first point, depreciation, for myself I find it a little difficult seeing what the impact is of 60% as opposed to what you would like, which is 100%. . I can understand a high depreciation rate would improve the cash flow and the incoming funds would be reserved to meet your debts if depreciation was 100% and furthermore with irregularity as to profit it mightbea little more satisfactory, but with the carry-back provisions of the Income Tax Act, if you don't take enough depreciation in the first year and continue to a profit, in the second year you can get the

benefit of that depreciation. Is that of such significance that it makes an awful lot of difference to you?

MR. WARGON: I feel it is, but I would like to refer that question to my colleague, Mr. Ford. I feel he is more able to answer it.

MR. FORD: Mr. Chairman, while we have suggested in the brief that 100% would be more appropriate, that is hinged basically upon the video tape being 100% rate. We feel a promotion picture film destined for television is really no different than video tape, and therefore we fail to see why there is a difference or distinction. However, the different method of calculating depreciation for tax purposes, along the line of the U.S. method, which is the amortization of the production cost over the anticipated revenue would be an acceptable alternative. So far as we are concerned there is no particular magic about the 100% rate. We are simply concerned that we are allowed to amortize our costs as the revenue comes in. So far as the loss carried forward and loss carried back provisions are concerned, the loss carry-back is not satisfactory from our point of view. In our appendix we give an example and you will see where we are able to carry the loss in the second year back against profit in the first year the loss in the third and subsequent years may not be carried back and therefore, the cash position becomes a little more serious.

THE CHAIRMAN: Your proposition is to use some practice similar to the U.S. such as to estimate what the income is going to be. Is there any precedent for that

in Canadian practice?

MR. FORD: I don't know of any. This is really why we went to the 100% rate. While we have a different form of amortization, there are reducing balance, capital cost allowance as an example of tax and franchise or leasehold interest. There has been no practice I know of that allows amortization on the basis of estimated revenues.

THE CHAIRMAN: I don't think so, because it would involve judgments being made in every case.

MR. FORD: That is correct.

THE CHAIRMAN: I think the Department would consider that to be very objectionable and I am not sure the taxpayers wouldn't also. It is an exercise of a number of quite arbitrary discretions.

MR. FORD: The system seems to work quite well in the United States, but there is, of course, they have had more experience with it, both the Interal Revenue authorities and the industry. They are thoroughly familiar with the workings. As I say, it seems to work satisfactorily. In Canada we have suggested the 100% as being more appropriate, because it fits in with the Canadian system.

THE CHAIRMAN: It does seem to. Would anything short of 100% give you satisfaction and not be arbitrary?

MR. FORD: There is a difficulty there. It depends upon the flow of revenues during the distribution. If there is a series produced, for example, that was good for one year only, and there have been such types of series produced, you really need the 100% write-off,

anything less than that means capital cost allowance in future years when there is no income or revenue to offset. With production such as outlined in the example a rate of, say, 80% would probably put us in an equitable position.

THE CHAIRMAN: The real difference between the two, when it is 80% it is true that there is capital cost, and 100% is virtually a departure from the whole principle, the principle of capital cost. I think we have your point. Is there anything else on that, or shall we move on?

Let us take a look at the foreign taxation of film royalties. This seems to be your major problem as I read your submission.

MR. WARGON: Yes.

THE CHAIRMAN: By virtue of your Appendix A, the figures which you give, I would think it comes about because foreign taxes are imposed generally on gross and may in fact exceed the net profit. This, of course, is exaggerated in the case of Canada as opposed to the States. You say in here your big market is really outside of Canada and therefore if you are going to be taxed on gross, it means that may or may not be taxed on profit. You may, in fact, be taxed when your operations are at a loss. That led me to consider whether the treatment in Canada which is given to properties and something else --- if you look at Section 110(1) which is the alternative for rents and timber royalties, there is a formula there, of course, to have the choice of tax on net or tax on gross. I have

never seen anything like that in an international treaty. I would think if that sort of thing appeared in international treaties it might take care of your problem.

MR. FORD: It does appear, in fact, in a U.S. treaty with regard to real estate?

THE CHAIRMAN: It does, you say?

MR. FORD: Yes, Article XIII A.

THE CHAIRMAN: Yes, you are right, Mr. Ford. I see Article XIII A of the U.S. Convention says:

> "A resident or corporation organized under the laws of Canada deriving from sources within the United States of America rentals from real property may elect for any taxable year to be subject to the tax imposed by the United States of America on a net basis as if resident or corporation were engaged in trade or business within the United States of America through a permanent establishment therein during such taxable year".

If, in fact, that article were extended to your type of business that would provide a solution for your problems.

MR. FORD: Yes, that would be a cure, certainly, of the foreign tax problem.

THE CHAIRMAN: We experienced a little difficulty in your Appendix A in respect of one figure there, and that is the domestic tax payable $93,900.00. It, of course, is worked out having regard to the income from the different countries. We haven't gone through the details of it to any great extent and I don't think

without a working paper, we could.

MR. FORD: I believe that is correct. I have spoken to your research staff about it and agreed to work with them and show them how the figures come out.

THE CHAIRMAN: That is fine. I don't want you to give us details now. Do you know whether any possible ventures in the Canadian film industry have been killed because of particular tax difficulty?

MR. WARGON: I believe that possibly no other Canadian producer has been in the position of earning any substantial revenue abroad prior to this time, so that possibly no one has had to face this difficulty before.

THE CHAIRMAN: I wonder if you are correct. I have learned conversationally that in British Columbia there was a firm opening a film in London, England. If that was the case, surely it would receive substantial royalties. Do you know of what I speak? I don't remember the name.

MR. WARGON: I have also heard conversationally of the company. I know nothing about their operations.

THE CHAIRMAN: Then, in paragraph 14 there is something I don't fully understand: That is the carry-over of a tax credit in addition to the advantages of receiving royalties without being subject to foreign and withholding taxes:

> "The U.S. producer has an advantage in that he is permitted to carry over a foreign tax credit from one year to the next or may deduct the foreign tax as an expense in the year it is incurred."

I would think that the foreign tax would always be better used as a deduction from tax than as a deduction from income. Is that not always the case?

MR. FORD: In this particular circumstance, for example, in our example in Appendix A we have used the foreign tax as a deduction from income because that gives the U.S. producer his tax advantage in the United States. There are a number of cases in both individual and corporation tax where it is more beneficial to claim deduction from income than deduction from tax.

THE CHAIRMAN: That is because he is entitled to deduct from his domestic income and only entitled to deduct from domestic tax on foreign income?

MR. FORD: That is correct.

THE CHAIRMAN: He has his choice then if he is not able to fully use his credit of tax of either deducting from income or holding it over as a future credit.

MR. FORD: That is correct.

THE CHAIRMAN: Does that require being incorporated in the Treaties or is that done by domestic law?

MR. FORD: That is done by U. S. law.

THE CHAIRMAN: Subject only to our difficulty with the calculation, which we don't want to hear about now, I think that is all. I think we fully understand what you have put before us. We have completed our questioning. We assure you that we will take this fully into consideration as set out by you. This is a matter of extreme importance. I can see that. I can understand why it would act more seriously on a young Canadian film industry than it would on a competing film industry in the

United States or in other countries. I think you make your point there very well indeed. Thank you indeed for appearing before us today and giving us this problem. If you have anything to add, we will be glad to hear it, otherwise we will conclude.

MR. WARGON: I might speak to the question which was put to me earlier which I don't think was fully answered. That is the question of the implications as to whether we can, in fact, compete or should compete with large English-speaking producing countries, the U.S. and Britain. Obviously this is a question which must underlie in speaking about this problem is it in fact desirable to have a Canadian film industry? We, of course, believe very strongly it is desirable, not only for the obvious cultural advantages and contributionsto the artistic life of the country and so on, but we also firmly believe it is economically desirable. It is an export industry and given a chance to flourish it will provide corporate revenue or revenue to the Government from corporate tax, which will exceed present revenue derived on taxing imports. We believe given the opportunity to grow, and I have to come back to that, because no one can foretell how long this will take, whether a matter of two years or ten years, but given an opportunity to compete on equal terms, and that is all we ask, we don't ask for special favours, we simply ask for the same considerations which are given to other industries, something approaching what the U.S. producer enjoys as it is with him we primarily have to compete, we will be able to be successful in this and believe benefits economically and culturally will

derive to Canada.

THE CHAIRMAN: Thank you. I believe some of your competitors have already been most successful in competing in world festivals or world contests. I have read of the awards earned by Canadians with some satisfaction. I do hope likewise that you will continue to be successful. Thank you very much indeed.

Mr. Secretary, is there any more business?

THE SECRETARY: One further item of business: On April 4th, 1963, a brief was received in the Commission's office in Ottawa from the Moore Corporation Limited relating to 5% withholding tax on dividends. This Corporation will not be appearing and I therefore would like to enter this brief into the record as Exhibit No. 61.

---EXHIBIT NO. 61: Brief of the Moore Corporation Limited.

THE CHAIRMAN: Very good, thank you. We will now stand over till tomorrow morning at 9:30.

THE SECRETARY: Tomorrow morning at 9:30 we will hear submissions of the Canadian Plumbing and Mechanical Contractors' Association and the School of Economic Science.

---Adjournment.

ROYAL COMMISSION

ON

TAXATION

HEARINGS

HELD AT

TORONTO

ONT.

VOLUME No.: 20

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ROYAL COMMISSION ON TAXATION

Hearing held in Howard Ferguson Auditorium, Sir Daniel Wilson Residence of University College, University of Toronto, Toronto, Ontario, on Tuesday, the 14th day of May, 1963.

COMMISSION:

MR. KENNETH LeM. CARTER -- Chairman

MR. J. HARVEY PERRY

MR. A. EMILE BEAUVAIS

MR. DONALD G. GRANT

MRS. S.M. MILNE

MR. CHARLES E.S. WALLS

LEGAL ADVISER:

MR. J.L. STEWART, Q.C.

RESEARCH DIRECTOR:

PROF. D.G. HARTLE

SECRETARY:

MR. G.L. BENNETT

ROYAL COMMISSION ON TAXATION

HEARINGS HELD AT THE CITY OF TORONTO, ONTARIO

May I4, I963

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Canadian Plumbing and Mechanical Contractors Association.

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Volume No. 20

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Toronto, Ontario,
Tuesday,
May 14th, 1963.

A/MR/dpw

--- On commencing at 9.30 a.m.

THE CHAIRMAN: Mr. Secretary, it is now 9.30. Would you be so kind as to put us underway and introduce our visitors?

THE SECRETARY: Certainly, Mr. Chairman. Good morning. We have this morning a brief from the Canadian Plumbing and Mechanical Contractors' Association. Officers of this Association are present. Mr. R. Davidson, General Manager, will introduce his colleagues.

At this time I would like to enter this brief into the record as Exhibit No. 62.

--- EXHIBIT NO. 62: Submission of the Canadian Plumbing and Mechanical Contractors' Association.

SUBMISSION OF THE CANADIAN PLUMBING AND MECHANICAL CONTRACTORS' ASSOCIATION

Appearances: R. Davidson
R.E. Belyea
A. Twa

THE CHAIRMAN: Thank you, Mr. Secretary. Good morning, Mr. Davidson, gentlemen.

MR. DAVIDSON: Good morning, Mr. Chairman.

THE CHAIRMAN: You may remain seated if you wish to do so. Most people do. We have read your submission and if you would care to review it for us or read it, I think the most convenient manner would be to go by sections. You have set out roughly five points. If you could take it point by point and discuss them one after another; they are not particularly related one to the

other, and I think this would be the best way to proceed. Before doing so, I would ask if you would introduce your associates, Mr. Davidson. On my part I will introduce you to the Commissioners, whose names are all set out before us.

MR. DAVIDSON: Well, Mr. Carter, gentlemen, lady, first I would like to express on behalf of the Association our thanks for the privilege of appearing before you and to introduce here Mr. Roy Belyea, who was the founder and first President of this Association and as he was Senior Controller of the City of Toronto for many years, he has more than a passing knowledge of tax matters, and Mr. Andrew Twa of the firm of Ernst & Ernst who are auditors for the Association.

Mr. Twa is the tax consultant for the Association. Mr. Belyea will read the brief sectionally if you prefer it that way, Mr. Chairman, and Mr. Twa and Mr. Belyea will expound on the points that have been brought forward.

THE CHAIRMAN: Thank you, Mr. Davidson.

MR. BELYEA: Mr. Carter, ladies and gentlemen ---

THE CHAIRMAN: You may stand or sit.

MR. BELYEA: It doesn't make much difference to me, thank you. I will sit. I understand, sir, and lady and gentlemen of the Board, that you wish to take this up section by section, so the preamble and the first section of it will be left unquoted at this time.

First, we have a section here - Computation of Income Under Long-Term Contracts: This Association had some part to play in the well-known M.N.R. - Minister of

National Revenue - vs John Colford Contracting Co. Ltd. case conducted by one of its member firms John Colford Ltd. in relation to work done in the City of Montreal. Prior to the decision handed down in that case all billable work done in a given year regardless of whether it had been paid for or not, was to be taken into income for taxation purposes. The Colford Case decision ruled that holdbacks should not be considered as income until the final certificate has been issued by the architect or consulting engineer. This has the practical effect of establishing the completed contract method since the holdback contains in the vast majority of cases, any profit to be earned on the contract.

In cases of this nature it is respectfully suggested that the Act be amended to permit (a) the taxpayer to have the option of using the "percentage completion" method of accounting, such election being exerciseable "contract by contract" as is the current situation in the United States of America, (b) legallizing the "completed contract" method of reporting income.

THE CHAIRMAN: Do you think we might stop there? That seems to be, to me, a complete point in itself. Is that right, sir?

MR. TWA: Yes, it is.

THE CHAIRMAN: I was curious, on reading this, as to whether the law as it stands now is not in a reasonably satisfactory position in that one virtually can have a choice of either percentage of completion or completion contract method without some of the difficulties which would result from the formality of trying to write

it out. It is a difficult thing to write it out, to set down rules for procedure, I think.

The Department has, I believe, indicated that it will accept either basis subject to a two-year rule, in the case of the one, providing they are maintained consistently; is that correct?

MR. TWA: Actually, the provision for reserve in Section 85 does permit the reserve on cost but it does force, in other words, the taking into income in that year any profit element. Secondly, although the Colford case straightened out the situation on holdbacks, we still cannot recognize the situation in which the contractor has also borrowed which frequently happens in contracts. In other words, if he is permitted to bill, and he receives money from his principal, that is required to be taken into income.

In many instances, that is to permit him to build up additional inventory, because of seasonal conditions, geographic location, and so on, so that I don't think that the Act does permit, as it stands, or the way they proceed under it, that an appropriate method of accounting on long-term contracts is available at the present time.

Secondly, the percentage completion method, on the one hand, as opposed to the complete contract method on the other, I think the contractor involved in a job - I have in mind an experience with one client of ours who was faced with a rather expensive job based on the yardage of earth moving situation over vastly varied terrain, and, in consequence, they actually had to plan their three

years' work in such a fashion - this happened to be a company which was in Canada on a one-time shot in terms of this particular contract - the loss carried forward and back was very germane to the cost; they actually had to do the difficult work where they were going to lose money on a cubic-yard basis first, so that they would then have the loss to carry forward.

Had they taken the geographic area of the job, they would have been in a position that they would have had losses in the second year against the profits in the first with no ability to take it back.

In other words, I think the completed contract has to be based on computed income.

THE CHAIRMAN: Was that not permitted with them?

MR. TWA: There is, at the present time, a great deal of negotiation with the Department on this but if it is permitted, it will be permissive. They have no legal right to it.

COMMISSIONER GRANT: They were being paid on a yardage basis?

MR. TWA: Yes. In other words, there are so many variations in the type of work and in the terms under which a contractor borrows; so many things to be taken into consideration, including cash flow as opposed to just the question of the accrual income. We are faced with taxes which are indubitably cash and yet we must match against that the concept of accrual income. You can very easily - particularly in the contracting business find yourself paying cash taxes on accrued income without the cash ability to do it. The contract has not produced

the cash with which to pay the taxes.

It is the matching of these two concepts which is the overall important question.

THE CHAIRMAN: Some contractor very often takes a fixed price job, a cost-plus job, or fee jobs, and consequently he needs to use both concepts.

MR. TWA: This may well be. That is why it is suggested here each contract should be optional.

This situation does obtain in the United States. A contractor has the right, in terms of this contract or this contract, but he must be consistent once he has made up his mind what he is going to do; he has the right to determine this is the way he is going to act on each of these contracts and make his election and then account for his contract accordingly.

THE CHAIRMAN: You mean to say he can proceed to put his contracts into Classification A or Classification B as he pleases?

MR. TWA: Yes. By contract.

THE CHAIRMAN: Where is the rule of consistency?

2 MR. TWA: Not as he proceeds. At the outset. He takes a contract that he knows is going to take him three years to do. It is going to involve this cash or accrual income versus cash taxes, and in that instance he has the right to do it on a contract completion basis of taxes. He takes on another contract in which he has a billable situation, in which case he has cash income, in which case he can go on a percentage of completion basis.

THE CHAIRMAN: He is allowed the choice as he

proceeds?

MR. TWA: That is right.

THE CHAIRMAN: Exactly on his own discretion without regard to the rules whatsoever, into which classification he places the contract, provided he makes the election at the beginning of the contract. Am I correct?

MR. TWA: That is right.

COMMISSIONER GRANT: Would he make his election at the beginning of the contract or would he make his election at the time of filing his return?

MR. TWA: That is right.

COMMISSIONER GRANT: So that conceivably he could have about twelve months of operation before ---

MR. TWA: Making up his mind, yes. The question here is not a question of how much income the tax shall be paid on. The question is when the cash flow from the contract makes the payment of tax possible.

COMMISSIONER WALLS: Am I not right; you have the choice of accepting either of these plans at the beginning of the contract and staying with it. The only thing, then, is the two-year limitation on utilizing the completed contract system.

MR. TWA: There is nothing in the Act or regulation which permits a two-year limitation. That is a permissive practice on the part of the Department but no taxpayer has the security of knowing this is the law.

THE CHAIRMAN: Hasn't the Colford case destroyed the two-year limitation?

MR. TWA: I don't think, particularly. The

Colford case, as I recall it, was related to whether or not the holdback itself had to be taken into income, again related to the concept of billing. In other words, I don't think that billing has anything to do with, not necessarily, the determining of income because I had one case, for instance - an American contractor up in Gander Bay where they were permitted by the U.S. Government to bill amounts vastly in excess of the work they had done because they had six months only in which to bring materials in and they were permitted to bill on this basis which, in fact, was borrowing, to make it possible to bring in an inventory to complete the job during the winter months.

We have finally, on a permissive basis, again with the Department, and after a great deal of negotiation we got this thing straightened out. We were being held to a determination of income on the basis of their billing with their costs associated with it.

THE CHAIRMAN: Would it not be very unfair or wrong if the contractor was permitted to elect on a five-year cost-plus contract to bring in his profit on a completed contract basis?

MR. TWA: I don't think so, because I think anyone in the contracting business will bear out the idea that although, with all the facts before you, you may have realized so much profit, the contractor himself, after all, is liable for the repair, the straightening out of this and that.

He has many costs which are completely contingent, insofar as the Act is concerned, for which there

is no provision or no consideration given and yet those contingencies are almost a statistical certainty in the business.

COMMISSIONER GRANT: Prior to the decision in the Colford case a contractor was being taxed on profits which the Department assumed were included in the holdback but which, at the completion of the contract, might turn out to be actually a loss.

MR. TWA: I think the very fact that the Colford case had to be heard is the best indication of what we are trying to get at.

The very fact it has had to be brought to litigation indicates that the Act was not sufficiently clear.

MR. DAVIDSON: Would you like us, sir, to pass on to the next section?

THE CHAIRMAN: I think so. Just a minute. Any more questions? Yes, please go on.

MR. BELYEA: Secondly, it is recommended that, where property is sold by a contractor on a mortgage, installment sale method of discounting be permitted, for example -

	Taxable Income	Sale Price
Sold for		$15,000.00
Cost		13,000.00
Cash down payment of		2,000.00
$1,500.00 (2/15 x $1,500.00)	200.00	
Fist year Principal paid on mortgage $150.00 2/15 x $150.00 etc	20.00	
Interest to be added.		

If the Contractor sells the mortgage, he should be taxable at his profit ratio. The principle here is that the - there was an error there - credit sale (mortgage) bears cash taxes, which is a very heavy burden on the cash flow of the builder when he has to wait for the cash because of the exigencies forcing him to sell without outside mortgage money.

MR. DAVIDSON: Mr. Chairman, for clarification here on that; where it says $1,500, it looks like minus 2/15. If you just bracket that 2/15 times $1,500 - it is not minus there.

If you delete the word "forced" in the second line below that, because it might not be forced.

THE CHAIRMAN: All right. Two-fifteenths is the ratio of the downpayment to the total amount of the sale?

MR. TWA: No, unfortunately, sir, the cash downpayment is not $2,000. The $2,000 - there is no description opposite it. It should be profit. The $2,000 should bear the words "alleged profit" and then on a line below it it should be "Cash down payment of $1,500."

MR. DAVIDSON: I am afraid my secretary wasn't as hep to the tax matters as she should have been.

THE CHAIRMAN: So we are applying a ratio of the profit to the total sale price, to the downpayment, and all subsequent receipts of cash?

MR. TWA: That is right. In other words, the profit ratio is used as the method of determining how much of each cash payment received, either by downpayment, by installment payment on the mortgage or by way of

discounting the mortgage subsequently - as suggested here is the basis of tax. It really is a cash flow tax method rather than accrual.

THE CHAIRMAN: This is taking care of land, I think, is it not, under Section 85(1)(d), Subsection 2?

MR. TWA: It may be. I haven't the Act in front of me. I haven't had experience with that.

THE CHAIRMAN: I think it probably is and you are asking for this treatment in respect of mortgages, as I read this.

3 MR. TWA: What I am saying is: the builder has laid out $13,000 for a building, to put up a building, and we will discount the land situation here, although it would be a component in it. We will say this is entirely for building. He has actually laid out $13,000, because he has that much money out of pocket.

He sells the property for $15,000 and by the ordinary method of accrual accounting would be held to be taxable on $2,000 of income because he has gone through the process of making a sale. However, in terms of running his business and having cash with which to function, he has only $1,500 that he received out of $13,000 he is presently out.

The suggestion is that the profit ratio determined by the sale itself should then be applied against any cash receipts, any cash which he receives, and his cash tax should then be paid on that amount.

THE CHAIRMAN: I think, if the treatment that was given to land, to which I have just referred, was applied also to buildings, what you ask for would be

obtained.

MR. TWA: I think the more important principle here is the cash tax. It is the important thing to the contracting industry. It is particularly important, but it is important to anyone in business. However, it is specifically important here.

B/EMT/ss

COMMISSIONER GRANT: Profit to be taxed over the period of the mortgage?

MR. TWA: I am suggesting that he be taxed, but the element of every dollar he receives in cash in terms of profit ratio --- in this particular instance the profit ratio is 2/15 --- for every dollar he gets, two fifteenths of that dollar will become taxable income.

COMMISSIONER GRANT: Plus interest.

MR. TWA: Plus interest.

THE CHAIRMAN: You are sure this is not now the law?

MR. TWA: Well, if it is, I have been remiss on any number of instances.

THE CHAIRMAN: I do not think it is, but I wondered if you knew.

MR. TWA: I don't know. The Act is a voluminous thing. I would hate to say you can't find this or that in it, but I have not been able to find it personally.

THE CHAIRMAN: If you could find it, I think it would be in Section 85 (B).

MR. TWA: As I understand Section 85, normally you are permitted to reserve your costs, but your tax is taxable in the year you actually consummate the sale, be it even entirely on credit.

COMMISSIONER GRANT: Whether you get the money or not?

MR. TWA: Right.

THE CHAIRMAN: The language is pretty broad. "...there may be deducted a reasonable amount as a reserve in respect of that part of the amount so included in computing the income that can reasonably be regarded as a portion of the profit from the sale."

It does not necessarily specify, and of course I do not think the law should exactly specify what the computation is, but I think it is restricted to land, although I do not know why there is that restriction.

MR. DAVIDSON: I think there is a parallel in thinking here between (a) and (b) and the Colford case brings out the same thing. You pay tax on the money you get, not on the money you might get or are supposed to get. Shall we proceed with the second part?

THE CHAIRMAN: Yes.

MR. BELYEA: Capital cost allowance --- It is strongly recommended that the rates of capital cost allowance should be reviewed so that tax incentive is available uniformly to all taxpayers.

Under present regulations the taxpayer is caught in the positon he happens to be in at the time determining the base for his ability to claim. It is suggested that it would be desirable to more closely relate capital cost allowance to the recovery of money expenditures not yet permitted for tax, with less regard to the assumed useful life of the asset.

MR. TWA: I think those are two separate items actually. I must admit that such as I contributed to this brief was done very informally with Mr. Davidson in his office one day with the phones ringing, and we did not necessarily break the thing as well as we might have.

The first point is with reference to the equipment modernization specifically as relates to depreciation but even more particularly to the creeping tendency in tax legislation to work on the basis of bases. The fact is

that the taxpayer is caught in whatever posture he may have been in the preceding year or preceding years, and then either fares well or badly depending on this completely accidental situation. This runs through the modernization of equipment provision and it runs through Section 40 (A) of the Act. It has become a principle that seems to be introduced into tax legislation which I think should be investigated and thought out seriously, because it means that taxpayers are taxed a little bit I think by something of the principle that they are stuck by just the sheer accident of their position at the time the legislation is brought down, and that is basically the idea in these first two sentences of this Section as it relates specifically to depreciation; the instance being a company which erected a new factory two years ago or three years ago has virtually no opportunity whatever of availing itself of the added depreciation incentive, but the one which held off for one reason or another and then goes out and builds it today has the advantage of tax benefit from the additional depreciation offered.

THE CHAIRMAN: Is that not true of all tax amendments.

MR. TWA: This is true as of the date the legislation was brought down. You are then in a position to fare accordingly. Here you have no chance, because there is the alement of retroactive legislation involved when something which has occurred in the past is now made the basis for your tax in the future.

THE CHAIRMAN: You have lost me, I am afraid. I cannot think of an example of what has occurred in the

past being made the basis for future legislation.

MR. TWA: We will say that as of today legislation was brought down which increased the rate of depreciation on a building. People are in a position to decide whether they want to put up a building or not based on the rate of depreciation, but if the rate is determined by reference to how much they increased their capital plant over the past three years we will say, they are no longer as free in their determination of their policy, because they are stuck with their history, and that is the factor that I am pointing out here: The fact that the historical accident of the taxpayer's position is a determining factor in his tax treatment whereas I think tax legislation should be set that everyone has the right to make up their mind in terms of their tax treatment as of the date the legislation was brought out without reference to their own past history.

COMMISSIONER GRANT: In other words, if an amendment were brought in permitting accelerated depreciation over what is now permitted on a building, say, a so-called reinforced concrete or steel-frame building, any person who now owns such a building could then take the accelerated depreciation if they wished?

MR. TWA: I did not mean quite that. I mean simply this: If the legislation is brought down in such a fashion that everybody is free to make up theirmind as to what they are going to do about it without there being any impediment to their so doing, by virtue of their own history, then I think the tax legialation is fair.

However, if out of their own commitments, their

own actions during the past two or three years, they are impeded from taking advantage of something which comes down in the Act, I think there is an element of retroactive taxation involved there, because the taxpayer is stuck with his own history. I think this is fallacious.

COMMISSIONER GRANT: I think Mr. Twa is really doing a little bit of philosophizing here.

MR. TWA: That is perhaps true.

COMMISSIONER GRANT: It means that the results of the past very often give rise to the changes that are made.

MR. TWA: I think this is unavoidable, but I do not think legislation should be written in such a way that it is not only unavoidable, but in other words the taxpayers today are in varied positions, because of what they have done, and there is nothing they can do about it.

Therefore, it seems to me the laws wherever possible, if they are going to provide incentives, they should provide them uniformly to taxpayers to make up their mind here and now as to what they are going to do in the future, and not necessarily to be stuck with their past activity.

The instance I cite is where two yeara ago a company went through, we will say, a program of capital replenishment by virtue of which they will have no ability whatsoever to spend any money in the future or at least they don't need to. They have the equipment behind them. It may well be if there is accelerated depreciation they will not be able to take advantage of it because of their own position in respect to themselves

and what they want to do as a matter of company policy, but when you point them to this by saying how much have you spent in the past two or three years and only if you spend more than that will you be permitted something, I think there is an element of complete accident or at least a situation in which the taxpayer unwittingly is bound by policies which he undertook in the past.

In other words, it is this whole principle of tax treatment today using a basis derived from prior years.

THE CHAIRMAN: You mean if there is to be tax treatment of a current or future year and it is related to a base period, whether it is a year or several years, there should be an adjustment permitted in such base period to take care of abnormal circumstances?

MR. TWA: Yes, very definitely, but it is much the same thing and although I was not personally involved in it, certainly the standing profits tax which after all had something of the same thinking behind it gave rise to all sorts of costs and litigation because taxpayers were again caught in the accidental situation because of
2 their past history.

THE CHAIRMAN: That was emergency legislation during wartime, and I do not think it is a particularly good case to quote, but since then we have had one or two instances I think of legislation which has been related to a base year, the most recent being research expenditure.

MR. TWA: Yes, and the sales incentive.

THE CHAIRMAN: That is right.

MR. TWA: It is this creeping tendency of tax legislation to do this that I think should be examined.

Let me put it this way: I think it should be thought out more carefully and the tax effect on the individual, and in other words in terms of the total country this may achieve what they are trying to do in terms of economics, but I do not think it is the right approach to the individual taxpayer.

THE CHAIRMAN: If it is going to be anything related to the past which requires adjustment, it follows that the adjustment would have to be made by a person or group of people I would say, which is of course difficult, and discretion handed out somewhere; presumably if one was not satisfied with giving the discretion to the Minister or his Deputy, that would require a board I assume. Therefore I would ask if in the current two items of legislation which we have referred to you think those should be taken care of by some kind of board or tribunal to pass upon what is in effect the basis of the past?

MR. TWA: No, I would not suggest that. What I would suggest, and again I may be accused of philosophizing, but I think the basic approach to tax legislation should be examined to determine whether this is a good principle to base a law. That is the principle of prior years as a basis.

THE CHAIRMAN: Do you have an opinion?

MR. TWA: I think it is the wrong principle, personally.

THE CHAIRMAN: Thank you.

COMMISSIONER PERRY: I sympathize with Mr. Twa. Again he has got at one of the basic difficulties here in

offering tax incentives at all, because invariably when one looks at it in terms of the individual taxpayer any incentive program is going to result in inequities, and I think what you are elaborating is only a minor aspect of this.

MR. TWA: Of a much greater generality.

COMMISSIONER PERRY: Of a much greater generality. Incentives have quite a varied effect on taxpayers in proportion to their ability to take advantage of them, and this is inescapable. The fact that part of the calculation is using a base year in my mind is not very important compared to the more general difficulty, and I am not implying that I am opposed to incentives, but I have always felt once you start into a program of incentives you forget about equities. In other words, you made up your mind to say "no, these are going to create inequities, but in the long run they are worth it". These incentives will be worth the gain to the economy at large.

MR. TWA: Again at the risk of having Mr. Grant accuse me of philosophizing, I have read the discourse of Mr. Perry and the difficulty of the dual role of taxation as a method of raising revenue and also being a method of controlling the economy of the country and so on. This may be very fine and yet I think the action of the individual taxpayer who finds himself in a situation which is not as favourable when compared to the taxpayer next to him if you ask him, and this is after all for the good of the national economy, and they are good hard dollars that he is paying out in taxes -- I think you will be asking him to make a reasonably strong moral personal sacrifice in

reference to these things, and I do feel --- what I am particularly prodding at --- I think taxes should be devoted to the raising of national revenue and the economics of the thing should be somehow or other controlled by some other source.

COMMISSIONER PERRY: I think what you are saying is that we have no more tax incentives.

THE CHAIRMAN: Right.

MR. TWA: This is basically my point.

COMMISSIONER PERRY: It is quite an arguable point.

THE CHAIRMAN: I think what you are telling us is your personal point rather than that of the Association. Am I not correct?

MR. TWA: Yes. Actually I don't know that this is true. In talking with Mr. Davidson and bringing this point out, I think in fairness I did --- perhaps I did not get as high up the ladder as we have gone on this --- but I did point out to him that the individual taxpayers, and after all he is the representative of a group of individual taxpayers, are called upon through the device of taxation to sustain some economic program or other. Did I fairly make that statement, Mr. Davidson? It is difficult to know, because this was ----

MR. DAVIDSON: It is a pretty big field that we have strayed into.

COMMISSIONER PERRY: I had no intention of splitting your ranks. Let us all assume that we are in favour of incentives.

MR. TWA: I think all this reads from there on,

Mr. Belyea.

THE CHAIRMAN: We got to the bottom of page 2.

MR. TWA: Yes.

MR. BELYEA: It is suggested that it would be desirable to more closely relate capital cost allowance to the recovery of money expenditures not yet permitted for tax, with less regard to the assumed useful life of the asset.

It is also recommended that, for capital cost allowance purposes, consideration be given in particular to removing the inclusion of all building services in the classification of the building. Examples are elevators, sprinkler systems, electric wiring, transformers, plumbing, heating, air conditioning. None of these items are dissimilar to "machinery and equipment" which bears a 20% rate of depreciation, but, because they are listed as "integrally a part of the building," they bear only 5% or 10% depreciation depending on the building. Sprinkler systems, for example, although they do reduce fire insurance rates, take so long to recover in terms of cost that, tax wise, the owner is better off to save his capital and pay the extra insurance premiums as he goes. It is suggested that the present depreciation regulations definitely discourage building improvements because of the low recovery rate for tax purposes. Specifically, therefore, it is recommended, without prejudice to (a) above, that services within the building should be evaluated in terms of their useful life, and not in terms of the building itself.

THE CHAIRMAN: That is an interesting point to

discuss. When capital cost depreciations were established, there were two courses that the Government could pursue; one would group the capital cost allowance and as you may remember the other was to go more to the U.S system, which at that time covered one very large book and had detailed rates. They chose the former approach, and in that used what they considered at thattime to be liberal rates in sort of basket areas into which everything was dumped.

Of course one of the by-products of this is that if you have a building without any aquipment in it, you get the same maximum depreciation allowance as you do on a place filled with equipment. That is the point that you make?

C/PB/dpw

This is the imperfection of this kind of system, but if they had taken the other course there would have been imperfections in that, and one must, I suppose, consider one against the other.

COMMISSIONER WALLS: Because of the difficulty in separating the wiring and other mechanical benefits that go into a building from the building itself and recognizing the soundness of your argument that these benefits would depreciate faster than the building, as an alternative, would you suggest that the depreciation rate on the buildings which contain these benefits should be increased?

MR. TWA: Actually, I don't think so. I think the rates, as Mr. Carter said, are liberal. We do have the two; the five and the ten per cent. You can take the same elevator which may be a rather expensive piece of equipment and if you had a frame building with sufficient height that elevator in one building would bear 5% and in the other 10%. It seems to me, quite frankly, I would be much more in favour of seeing - and I think here I can speak in terms of the brief and the purpose of the people appearing - that no one wants to get into the guide situation they have in the States, but I think there is here, as it specifically relates to the building industry, those people who are particularly related, as are plumbers and heaters, to the various parts of a building, some provision might be made of these things which are a complete system, such as a heating system, and the elevator system and the sprinkler system and the electrical wiring system and so on; something that doesn't

have the life of the building in which it is installed, and, in fact, has a life of its own that is in no way related to whether the building is frame or brick.

THE CHAIRMAN: I think your point is well taken. I am not sure what should be the life of a building, even though it has an integrated system of equipment. The thought should be kept in mind that the measurement of the rates should be looked at, having regard to what you think of, if they are included in composite rates to take care of both or one for what is in it and one for the building, I suspect the building rates would come down and the other go up.

MR. TWA: Of course, the situation in the past decade of rising real estate values is something that has prevented any real proper assessment as to the assessment of buildings per se. I certainly think that the rate for the buildings themselves are, if anything, rather liberal.

COMMISSIONER MILNE: Mr. Twa, when you were speaking about the mechanical system in a building and the life of the systems and the Chairman suggested the possible assessment where there might be a little study taken, would you think there is a possibility of the life of these systems being reasonably near each other?

MR. TWA: I don't know. I would think that probably plumbing and heating might have a different life than, say, an elevator life, and so on. Perhaps the difference might not be so great that they would have to be put into separate classifications.

COMMISSIONER MILNE: I am thinking particularly

and I live in Winnipeg - of one elevator in one building there. I am sure that elevator must be about the oldest thing in Winnipeg, but it is still in excellent working order.

MR. TWA: Yes. On the other hand it is conceivable, with the modernization of building and so on, that the elevator should be changed just to improve it to the service that is required today, yet with the miserable 5% it would be very discouraging.

COMMISSIONER PERRY: It was on this basis the British for years did not allow any depreciation at all for buildings. From the Treasury they could see buildings that were a thousand years old. They said, "What do you mean; buildings are depreciated? Look at them."

MR. DAVIDSON: I think some of the plumbing would be.

MR. BELYEA: Mr. Chairman, I might point out at this time, in our business our experience is that you take some of the very finest homes in Forest Hill Village and some of the other districts where the homes there are 30, 35 years old, and we are already taking out the plumbing system and replacing it because they have got into the condition they are going to damage property if they are not replaced. The houses themselves generally are perfect. They just have to have a new vein in them.

THE CHAIRMAN: Is that generally the case, Mr. Belyea?

MR. BELYEA: It is generally.

COMMISSIONER WALLS: Is this more applicable to wiring than plumbing?

MR. BELYEA: Wiring becomes obsolete very fast.

MR. DAVIDSON: And air conditioning.

COMMISSIONER GRANT: Is there any yardstick that you have that would give us the percentage cost of services in, say, an office building or apartment building?

MR. DAVIDSON: Yes, there is, Mr. Chairman. There is a rather close percentage to the mechanical work in taking plumbing, heating, air conditioning and ventilation to the total cost of the building. It is pretty well-known generally. The electrical work also is a percentage that is pretty well-known. Any general contractor or any architect could almost give you, within 1 or 2 per cent of the cost of the building, how much the mechanical would be and how much the electrical would be.

THE CHAIRMAN: When you say "pretty well-known" are there accepted standards you could quote to us?

MR. DAVIDSON: I would think so, Mr. Chairman. I will give you a rough rule of thumb and say that the mechanical work in a building would be approximately between 25 and 30 per cent of the cost of the building and the electrical work might be somewhere in the area of 10 to 15 per cent. That could be confirmed by any of the architectural firms in town. Generally speaking, that is about a rough rule of thumb.

COMMISSIONER GRANT: Are you including elevators?

MR. DAVIDSON: Mechanical is plumbing, heating, air conditioning and ventilation.

COMMISSIONER PERRY: Perhaps, a supplementary

question to that would be whether this element in building has increased since the present rate was set for depreciation.

MR. DAVIDSON: I would think so. I would think it is because - for one reason particularly - there are more air conditioning systems in buildings today than there were 10 years ago which forms part of the mechanical content.

COMMISSIONER GRANT: If you take mechanical plus the electrical plus the elevator service ---

MR. DAVIDSON: You might get close to 50%.

COMMISSIONER GRANT: You might get close to 50%, which would include the cost of construction, including excavation and foundation?

MR. DAVIDSON: That is correct.

COMMISSIONER GRANT: On which there is no depreciation now allowed.

MR. DAVIDSON: Shall we go on, sir?

THE CHAIRMAN: Yes. It is very interesting.

MR. BELYEA: Depreciation - It is noted that present legislation discriminates in the rate of depreciation of frame buildings as contrasted with concrete and steel structures. Steel and concrete structures carry half the depreciation allowance that a frame structure does. It is suggested that, if encouragement is to be given to owners and investors to build better buildings, and buildings that provide a better fire risk and hence are less costly to communities which have to protect them from fire, consideration should be given to accelerated depreciation for concrete and steel structures.

THE CHAIRMAN: Thank you. Before one gets to incentives I suppose one must be concerned about matching of cost and income, and if a frame building has a shorter life I would assume it should enjoy a higher rate of depreciation; is that not correct?

MR. TWA: I think basically it is, although that capital cost allowance does not necessarily indicate depreciation on a piece of property, but rather a return on tied up capital. In other words, it is a dollar deduction permitted rather than depreciation per se, as we understand it. I am going to have to stay entirely out of the discussion because I just talked against tax incentives.

2 This particular point of Mr. Davidson's is very meaningful to these people because they, generally speaking, are the kind of buildings where there would be more services of the kind which they supply.

THE CHAIRMAN: Thank you. We will address ourselves to the incentive element of this. I am curious as to why the incentive is desirable. Is there not a natural urge to build something better than a frame building? Are incentives desirable to encourage building of buildings of steel and concrete?

MR. DAVIDSON: There is, but we get down to the dollars and cents part in respect to depreciation as contracted between one and the other. Then again, this varies according to the part of the country you are in. I find in the eastern part, and this is my own observation - in the eastern part - and I am talking of the Atlantic Provinces - there seems to be more frame

buildings going up than there is in the central or western parts of the country. It all hinges around the depreciation. Looking at it from an owner's point of view, who is going to build in an area where he has a choice between lumber or frame or concrete, which is he going to choose, having in mind the cost part of it, the depreciation part of it?

THE CHAIRMAN: One should, first of all, look at taxation seeking neutrality, trying to see what the effect would be if there were no tax whatsoever, and then, secondly, perhaps to say it is desirable that these things be directed in a course. I suppose that is what is now occurring, Mr. Davidson; that these things are finding their natural direction as if there were no tax to them. Your suggestion is that there should be direction in the country in favour of putting up something better than frame buildings; is that right?

MR. DAVIDSON: That is right.

COMMISSIONER PERRY: Would your statement regarding the Maritimes apply to factory buildings?

MR. DAVIDSON: No.

COMMISSIONER PERRY: Are they still building frame factory buildings?

MR. DAVIDSON: No, I wouldn't think so.

THE CHAIRMAN: Possibly warehouse, I suppose?

MR. DAVIDSON: Yes. I am thinking of the fishing sheds and so on that you see in Newfoundland and down around the Nova Scotia coast and so on. This is a matter of discrimination that seems to me to be wrong. I don't know whether it is right or not because

I do not purport to be a tax expert. It seems wrong to me that there should be a difference in depreciation because of the material that is being used.

THE CHAIRMAN: The suggestion is that frame buildings will last only half as long as the others. If that is correct, of course, the depreciation rate should be more. It should be double.

MR. DAVIDSON: If that is true. I don't know whether they do last any longer or not. There are pretty old frame buildings in this country that seem to have been going for some time.

COMMISSIONER GRANT: What depreciation does a building of frame construction with brick veneer exterior walls carry?

MR. TWA: You can get into a very interesting hassle where you get a mixture between these two things.

MR. DAVIDSON: I can't answer the question.

COMMISSIONER GRANT: With reference to your observation that you find more frame construction in the East Coast, I think that is true, and I think that it was generated, to a large extent, through the National Housing Act policies, and a great many apartment buildings were built of frame construction because (a) they went up fast, and (b) there was higher depreciation permitted and the money was made available through Central Mortgage and Housing.

Now, it is interesting, I think, to note that the market takes care of the situation to some extent in that there has been a definite trend towards the steel and concrete type of building which offers better housing

and will command better rents.

MR. BELYEA: As I sit here and listen to this discussion I can't help finding myself being a bit of a philosopher. I suppose all businessmen have to be more or less philosophers or they can't stay in business.

COMMISSIONER GRANT: I must say I didn't criticize Mr. Twa for being a philosopher. I welcomed it. I merely made the observation I thought he was.

THE CHAIRMAN: I don't think anyone is opposed to philosophy.

MR. BELYEA: I think it would be well if we all did a little philosophizing about these things when we consider the life of these buildings. The buildings in Montreal - I have looked at these buildings, the brick-veneered apartment buildings, buildings they would not permit in Ontario, in sections; certainly not in Toronto. I am philosophizing now. I would ask you a question. Perhaps I am not permitted to ask a question.

COMMISSIONER GRANT: Certainly. The only point is, I am not bound to answer it.

MR. BELYEA: What I am wondering is: would it be a solution to the situation if we set up a system of taxation that wrote off a building at a certain given time and that building had to be taken down and replaced with a new, modern type of building?

THE CHAIRMAN: That wouldn't be a system of taxation. That would be a commissariat, a totalitarian system, I would think. Taxation is concerned with collecting the revenue on which the Government operates.

COMMISSIONER GRANT: I will answer the question

as it strikes me, and that is, in my part of the country I don't think you would get very many people who would put up a building if they found they had to take it down when it is was fully depreciated.

COMMISSIONER PERRY: It might be of advantage to the plumbing industry.

MR. BELYEA: It might be to the advantage of the whole building industry. Take automobiles; they last for ten years and they are scrapped and you get a new automobile. If you wrote off all the houses at a certain age, 40, 50 years, and said, at 50 years it has been written off, so you build a new one now, a new, modern building. I get your point that it isn't taxation.

THE CHAIRMAN: I think it is a very important social suggestion. To my way of thinking if it was carried out we would have no slums. It might be a fine thing to do. I think you are in the wrong place to propose it.

MR. DAVIDSON: I think Mr. Belyea's philosophy is not definitely a recommendation of the Association. I should make that point very clear.

COMMISSIONER BEAUVAIS: On that basis I think you would destroy 95% of the properties in Quebec.

THE CHAIRMAN: Then sales tax.

MR. BELYEA: Sales Tax - A/c and Tax Refunds - It is suggested that the present differentiations for federal sales tax purposes between air conditioning necessary for production (exempt) and air conditioning for the comfort of the staff, clients, patients or customers (taxable) is ludicrous.

MR. TWA: I think that is a breaking off period. I am

sorry to interrupt, but we go on to something else.

COMMISSIONER WALLS: Blowers and ducts for air conditioning are exempt for most industrial use. There is practically no form of industrial use, I believe, that the ducts and blowers are not exempt on. You have a situation that in order to keep plants in a healthy atmosphere you can put in air conditioning ventilation in a greenhouse and have it tax exempt, but when you attempt to do it to human beings in a building it is not.

The next inconsistency is: you can put in a heating unit in an office building, complete with ducts, and it is tax exempt, but if the unit is to cool the atmosphere then it is not tax exempt.

Then, finally, you fellows got smart and used the same ducts for both air conditioning and heating. They now exempt the air conditioning ducts only for air conditioning.

Here you have a further inconsistency in your industry, where some of your equipment is exempt and some isn't.

MR. BELYEA: That is correct.

COMMISSIONER WALLS: I must say I think you have a very strong case.

MR. DAVIDSON: It takes very devious steering to move through the maze.

THE CHAIRMAN: Thank you. Your point is well taken.

MR. BELYEA: End use, based upon proven necessity under a bill of goods for a sales tax exempt job, should provide an immediate exemption rather than the present

costly and cumbersome necessity of paying tax and then applying for a refund.

D/MR/ss

COMMISSIONER WALLS: How long a wait does this generally entail?

MR. DAVIDSON: I think it depends on the recipient. Either too long or just long. I really couldn't answer the question, excepting it does seem where money is required in the operation of a business right now, it would seem long if we have to wait until tomorrow or next week. I think that is the general principle.

MR. TWA: Yes. I don't know a great deal about it. I have never been able to learn very much about sales tax, but certainly I have had instances where sales tax has been paid at least twice on the same thing and the taxpayer has had to wait for tax rebates or abatements. There is only one thing to do: Pay and fight your way out of the paper bag and get your money back. It seems to me that it would appear that nobody has the slightest credit rating whatsoever with the Sales Tax Department, whereas you do have in terms of income tax, and so on.

The whole machinery of sales tax collection, there have been many things done to reduce the number of drawbacks that have to be claimed, and so on, but nevertheless there is still a great deal to be done in that area where the taxpayer has proven his position, is registered and receives his money back.

It would seem to me if he thinks he is exempt, he should be permitted not to pay the tax. If an audit is found he should pay the tax, there are penalties, and so on, available anyway.

COMMISSIONER WALLS: Is the delay not as much on the part of the applicant for the drawback as it is on

the Department giving the cheque?

MR. TWA: That may well be. Because of the documentation, and so on, that is required to be amassed in many instances on the drawback, the delay is somewhat understandable.

THE CHAIRMAN: It seems to me your point is well taken. If I were a taxpayer, I would be inclined to deduct what the Department owed me from what I owed the Department and send them a cheque for the difference.

MR. TWA: You may not get away with it, though.

THE CHAIRMAN: What would the consequences be?

MR. TWA: I know of one instance where exactly this was done. It is not related to this particular situation. The sales tax had been paid to a supplier. The supplier still had to pay the sales tax to the Department. They paid the sales tax out twice. It turned out they were exempt anyway; they got it back from both sources, ultimately.

MR. BELYEA: More generally, it is recommended that tax refunds, where necessary, should be immediate, subject to sales tax audit and interest payments if made in excess of entitlement. The taxpayer should not be required to wait for his money until an audit by the Department is convenient.

4. Taxation - Employees Fringe Benefits - It is recommended that the regulations be consolidated in respect to elements of the employee's remuneration withheld and vested in him in any kind of plan (deferred profit sharing, pension, welfare, supplementary unemployment benefit, etc.). It is suggested that these should be free of tax to the employee

until such time as he actually withdraws cash from it - and allowable as a deduction tothe employer.

To avoid abuse, some restriction probably expressed as a percentage of the employee's realized income, should be established, and, it is suggested, tha this percentage should be scaled - ie

0 to $3,000 per annum- 20%
$3,000 to $6,000 per annum- 15%
etc.

The inclusion of all such plans, approved only as to bona fides, under one comprehensive tax provision would greatly reduce the present cumbersome administrative procedures and encourage appropriate provision for future employee welfare procedures.

Present provisions for taxability of the employee upon receipts withdrawn from a plan based on the average of the three prior years tax rates, etc. should, it is suggested, be left in, but modified to permit such benefits only where withdrawal is due to discharge or death. Under the present system it is felt that employees might be encouraged to change jobs merely in order to lay their hands on built-up credits under the tax privilege of three years' averaging. The employee should be permitted the option, if changing his job, to avoid taxation on accumulated benefits in the current year by leaving all or some benefits in the existing plan, or if Provincial machinery exists, allowing it to be transferred and deferred to some central plan.

THE CHAIRMAN: Thank you. Employees' fringe benefits, any questions?

MR. DAVIDSON: This is a matter of some controversy.

At the present time we have in this Association locals. One of the prime reasons for existence of this Association is to negotiate labour agreements with the various locals all across Canada, and each local has its own peculiar conditions of operation.

In this one where there are 3300 men involved, there was a welfare plan negotiated about six years ago and under the conditions, or under the wording of the agreement there was some question as to whether the amount that was deducted from the employees' wages for this welfare plan should be tax-deductible in the hands of the employee.

I went to Ottawa. I got a written ruling from the Legal Department of the National Revenue on it and they ruled, of course, that the deduction should not be taxable in the hands of the employee, because, and it made sense, the employee never got that money unless he was sick or went to the hospital or something like that happened.

However, in the past --- that is six years ago --- in the past six years that decision has been challenged and reversed three times and there is still some discussion going on as to whether this money should or should not be taxable.

What we are trying to get at here is to see if the law could not be clarified in respect of these things so that there wouldn't be all this travelling back and forth, and time consumed for determining whether this money is or is not taxable in the hands of the employee.

COMMISSIONER GRANT: Has it been challenged

within the Department?

MR. DAVIDSON: Yes.

COMMISSIONER GRANT: But not by court action?

MR. DAVIDSON: No.

COMMISSIONER GRANT: Well, my understanding of a pension plan or welfare plan, or any plan which is a contributory plan is that, first of all, the written plan has to be filed with and approved by the Department of National Revenue.

MR. DAVIDSON: Pension, yes. I don't know about Welfare. I don't think Welfare plans do.

COMMISSIONER GRANT: Perhaps not. Once approved, then certainly the contribution of both the employer and employee are subject to deduction.

MR. DAVIDSON: That is right.

The second point here is that where I am an employee of the Board, we will say, and you set aside for me each year a certain sum of money to be built up in the form of pension, so that at a certain age I retire, and this money is paid to me in the form of a pension. This money, under the contract, is mine. However, it is held in trust for me by you and there is a condition on it that if I leave of my own free will I collect that money.

COMMISSIONER GRANT: Your own contribution.

MR. DAVIDSON: Yes. Or the whole.

COMMISSIONER GRANT: Depending on the terms of the contract.

MR. DAVIDSON: Yes. So that five years from now I leave and we will say there is $10,000.00 accumulated. I collect $10,000.00. I am in a bit of a tax problem in

that particular year under the terms of the present legislation and what Mr. Twa was suggesting in this last conclusion here was some means of discouraging people from leaving to get their hands on that kind of money.

Normally under this contract if you are dismissed or discharged or die, then there is no particular problem. If you leave, there is, and there have been quite a number of cases, we have found in this Association, where we suspect that the employee has left in order to get his hands on substantial sums of money.

COMMISSIONER GRANT: Well, could that not be regulated within the industry, Mr. Davidson, by having a type of contract drawn up under which the inducement to leave and to withdraw this substantial sum of money would not accrue to the employee until after, say, fifteen years of service?

THE CHAIRMAN: Where you got a paid-up annuity, rather than cash.

COMMISSIONER GRANT: There has been a lot of changes I think in the type of contract from the time pension plans first went into operation and became a deductible expense.

I think the thinking today is along more liberal lines in that the employee is allowed to withdraw not only his own contribution with interest, but the company's contribution as well for less period of service than it used to be.

It seems to me there is a means of controlling that within the industry, I should think, by the very nature of the contract.

MR. TWA: I think there is a very complex, and there are diverse sets of laws related to the various things provided here. The basic principle is identical through all of them.

If the employee does not actually receive the money, he shall not be taxed on it and the employer, in the meantime, makes the deduction. That seems to be the first principle and that is something which runs in common through all of these plans, and yet we need four or five sets of provisions in the Act to cover them, which merely confuses the issue.

Secondly, we have restrictions on the amount which may be contributed in a pension plan, and so on, both for present and past services, which has caused no end of work for the pension consultant, not necessarily to the benefit of the taxpayer. There are all sorts of anomalies in this thing which I think need to be brought together and the law consolidated, possibly in a manner which is comprehensive and which takes into account many things which have been ignored and, on the other hand, give less credence to things which have been made too much of.

THE CHAIRMAN: If I understand the substance of your remarks, the law as it now stands is not unsatisfactory, but it is untidy?

MR. TWA: That is right. It is not necessarily always cognizant of the fact. The S.U.B. plan, for instance, if you vest an amount in the employee, you may have difficulty getting the deduction. If you pay it into an overall pot, not vest it in anyone, you will get the

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deduction and yet the overall pot type of S.U.B. plan is not equitable in terms of your employees. The first ones who are going to be laid off are the people who contributed the least, and we have all sorts of these things running through the Act, and it needs to be tidied up completely.

COMMISSIONER GRANT: Has the Portable Pension Act which was introduced in the Ontario Legislature this session become law?

MR. TWA: It has been passed, but not proclaimed, as I understand it.

COMMISSIONER GRANT: To some extent it may meet the situation.

MR. TWA: I don't think you can, in terms of Federal enactment, depend on what the Provinces do to tidy up a mess in the Income Tax Act itself.

THE CHAIRMAN: It may change the nature of your pension plan, of course.

MR. TWA: Yes. I think the Income Tax Act itself should be consistent and reasonable within itself and sufficiently broad that Provincial enactment can be designated to fit into it.

COMMISSIONER GRANT: Again it may be a matter that can be possibly regulated within the industry.

THE CHAIRMAN: Not the main burden, I don't think, Mr. Grant, which is the tidying up of the Act.

MR. DAVIDSON: There are a lot of odds and ends hanging around which should be cleared up.

THE CHAIRMAN: I am not at all sure of the practicality of tidying up the Act, but it certainly is

something which can be looked at.

MR. DAVIDSON: Mr. Chairman, lady and gentlemen, I thank you very much for giving us the time you have this morning, and we appreciate very much the attention you have given to this brief. Thank you.

THE CHAIRMAN: We are very grateful to you for bringing these matters to our attention and the general interest you have in improving the Canadian tax laws. We will continue to consider what you have put before us with the hope that some of these matters may emerge in the eventual report that we will submit. Thank you, Mr. Davidson, gentlemen.

Mr. Secretary, we will stand over for ten minutes.

---Short recess.

E/ET/dpw

THE CHAIRMAN: Mr. Secretary, will you commence?

THE SECRETARY: Mr. Chairman, we now have a brief from the Alumni Group of the School of Economic Science. Mr. J.W. Ramsay is the Chairman of the Taxation Committee of the Alumni Group and he will introduce his colleagues and will speak to the brief. I would like to enter it into the record as Exhibit No. 63.

--- EXHIBIT NO. 63: Submission of the Alumni Group of the School of Economic Science.

SUBMISSION OF THE ALUMNI GROUP OF THE

SCHOOL OF ECONOMIC SCIENCE

Appearances: Mr. J.W. Ramsay
Mr. Ernest J. Farmer
Mr. William Phillips

THE CHAIRMAN: Thank you, Mr. Secretary. Good morning, Mr. Ramsay. Would you, in starting off, introduce your associates? Do not stand unless you wish to do so. We would like to know a little more about the Alumni Group and what the School of Economic Science may be, who the members are and how you are organized.

MR. RAMSAY: I would like to introduce Mr. Ernest J. Farmer, on my left, who celebrated his 80th birthday about three weeks ago.

THE CHAIRMAN: Congratulations.

MR. FARMER: Thank you.

MR. RAMSAY: And Mr. William Phillips on my right. Mr. Phillips is an accountant with the head office of the Y.M.C.A. in Toronto. I do not know when he celebrated his last birthday.

You asked about the Alumni Group. First, maybe, I could tell you a little bit about the School so that you will know where the Alumni originates. The School of Economic Science is set up under a charter from the Ontario Government as a non-profit, non-political and non-sectarian institute. We teach basic economics and social philosophy, mostly through the Y.M.C.A., but also through other community associations, such as the Board of Trade, the Jewish Community Centre and the United Steelworkers' Union, et cetera.

Our aim is to inform the general citizens of exactly how the country is run and how things get done, how wealth is produced, et cetera.

I do not think we have any ulterior motives. Our only motivation is to try to get at the truth of a situation.

The members of the Alumni are made up of graduates of the course. It is not the type of thing that you can join at the drop of a hat. You have to have done some pretty comprehensive and intensive study of economics before you can be eligible for membership.

THE CHAIRMAN: Who administers your course? How long is it, and do you set exams?

MR. RAMSAY: There is only one paid employee in Ontario, which is myself, as Director of Studies. The course is 28 weeks long. It runs from early October until May. The tuition fees are $29 for the winter. There are no set examinations as you would have in a university. The course is not a lecture-type course; it is a discussion course which means all the students

enter into all the discussions at every meeting.

It is at the discretion of the teacher or the Director of Studies as to the competency of the students, when they have finished the course, as to whether they get a diploma or not.

THE CHAIRMAN: Thank you. We have read your submission with considerable interest, including your stories of Mr. E.P. Turner and ourselves. I think we have a few questions to put to you. If there is anything you would like to say to us before we proceed to our questions we would be very glad to hear it, if you would care to amplify your submission or modify it or generally summarize or speak to it. We do not need to read it. It is entered into the records without that, and we have all read it.

MR. RAMSAY: There are a few typing errors which I think you probably ran into, but apart from that I do not think there is anything else that we would like to add at this time. I think we are ready to answer any questions that you have.

THE CHAIRMAN: Thank you, Mr. Ramsay.

COMMISSIONER WALLS: My questions, I must admit, are mostly through a lack of understanding of parts of your very complete brief. The first thing I would like to ask you is this: primarily, your philosophy is that of a single tax structure based on land. Am I right in that?

MR. RAMSAY: You are almost right. In the brief I did not use the words "single tax" any place at all. Let us look at it this way: if the Government took the basic land tax first and then found out if any other

taxes were necessary, I would go along with your statement.

COMMISSIONER WALLS: I see. Now, I am going to get this down to a relatively small basis so that I will understand how it functions. Supposing that I am a farmer with 70 acres of land, and adjoining me is another farmer with 5 acres of land. I have 70 acres and I am a full-time farmer. The man with 5 acres on exactly the same quality land is a part-time farmer. Let us say he works out on the Department of Highways, and as a result his total earnings are the same as mine. I realize that earnings do not enter into your picture, but what variation would there be in the amount of tax that the one farmer would pay, as against the other farmer, based on land?

MR. RAMSAY: Well, the ratio would be 5 to 70. I think you said 70 acres and 5 acres?

COMMISSIONER WALLS: That is right.

MR. RAMSAY: So the ratio would be exactly 5 to 70.

COMMISSIONER WALLS: Therefore, insofar as the income we are both making there would be no equity whatsoever, then?

MR. RAMSAY: No.

COMMISSIONER WALLS: I see. We have that point clarified. I am now a lawyer and I have an office in a large skyscraper, let us say here in Toronto. I presume that it is only the landlord who pays this suggested tax because he is the one who owns the land. Is that right?

MR. RAMSAY: Yes.

COMMISSIONER WALLS: And he, in turn, would assess my rent higher in order to cover the tax that he

would be paying on the land; am I right on that?

MR. RAMSAY: Yes, basically you are right.

COMMISSIONER WALLS: Well then; we take another lawyer out in a small town like Sutton or some town of that size, who again makes a livelihood equal with mine in the city but who rents an office in very much cheaper value land and his home is of equal size and on an equal lot to mine but also on cheaper value land.

I take it, there again, that my practising in the city on high land values would mean that irrespective of the fact that I am earning just the same amount of money as the other lawyer, indirectly I would have to pay a great deal more taxes than he would. Really, then, if I am right in that, your tax philosophy gets away entirely from the factor of equity, does it not, between individuals?

MR. RAMSAY: Is that your question?

COMMISSIONER WALLS: Yes.

MR. RAMSAY: No. I think it gets right back to the equity. Now, Mr. Walls, I think you put your finger on it, and that is the fellow practising law in the centre of the city is only there for one reason, and that is because that is where most business is. If he were up in Sutton he would not have quite as much business. I do not believe so, anyway. Why do we tend to congregate in the centre of the city? It is because that is where the exchanges of wealth are the most voluminous.

COMMISSIONER WALLS: But then if we all move out to escape this, we would all find ourselves back in the same kettle of fish again, would we not?

MR. RAMSAY: Yet I wonder if we have this type of tax that we are talking of if we would all move out. I would say you would find that the centre of the city would not be quite as congested as it is now. There would be a tendency for some people to move out and a tendency for some people to move in. You would have a better distribution of population than you have at the moment for that very reason.

THE CHAIRMAN: One thing I was looking for here: do you recommend taxation of what we generally call capital gains or transactions in land?

MR. RAMSAY: That would be a secondary type of tax as far as I am concerned. It would be secondary to a land tax.

THE CHAIRMAN: Thank you. Now, on page 23 you evaluate Canada at one hundred and fifty billions, and suggest a rental value of ten-and-a-half billions. Where does the one hundred and fifty billion come from? Is it the aggregate of all assessments in Canada?

MR. RAMSAY: No. This is a very difficult figure to arrive at, and I would appreciate it if your research staff could go into it further. However, let me tell you how we arrived at this figure. To start with, in the magazine "House and Home," which is a builder's
2 magazine from the United States; it is not a consumer's magazine, it is strictly for the building trade: they ran a research project in the year 1960, I believe, and they assessed all of the United States at five hundred billion dollars.

Now, this is only land values. This whole

issue, incidentally, is devoted to the land question in the United States, and they did some special research on it, so their assessment is five hundred billion dollars for the United States.

Now, Canada is a little larger in area than the United States so that would make it worth about six hundred billion. However, land values are not created by area; land values are created by people, so looking at it from another point of view, if the United States is worth five hundred billion and we only have one-tenth of the population, then Canada would be worth fifty billion.

However, there is something else that comes into it. There are two or three other things that will come into the picture. One is the value of land in Canada is appreciated by its proximity to the United States, the demand from the population of the United States, and I think this, of course, is reflected in the way people in the United States are investing in Canada, so the proximity to the United States and their population does have something to do with the land value.

The assessed value for all of Canada - I am sorry, with the exception of Prince Edward Island and Newfoundland, which we were not able to get figures on, the assessment for all the rest of Canada is $10,314,880,150.

Now, this is the assessed value. I had some consultations with the Department of Economics of the Province of Ontario and also the Assessment Department of the Province of Ontario, and they said that the selling value, the market value for land, would be six times the

assessed value. There again, it is one of those things that you sometimes cannot quite pin down the figures, but you have to take the figures of your experts and try to come out as close as you can, which would mean the market value would be sixty billion dollars.

Now, there are a couple of clouds on the market value. One, of course, is the taxes. When you are going to buy a piece of property there are two things you think of: one is the market price and the other is the tax you are going to have to pay on that property for as long as you have it, so that taxes on that sixty billion would be one cloud on the price.

The second cloud on the price would be zoning restrictions. I think it is pretty well understood that the zoning restrictions, especially in the centre of the city - you can only go up so many storeys and you can only cover the land to a certain percentage - will naturally keep the price of that land down. Therefore, from the sixty billion dollars that I mentioned a moment ago, you can add - I cannot give you any figure - but you can add to it.

Now, so far this figure I have given you is the assessed value of land in Canada. It does not really take into account the minerals that we have or the forests that we have, so to that I think I would like to give you one more statistic and then I will be quiet.

Forty per cent of Canada is covered with timber. Half of that is usable timber and the rest is scrub. How do you assess the value of an acre of timber? Well, down in the United States, in Washington, there is the

Weir Hauser Corporation that bought property; they bought 900,000 acres in the year 1900 for $5,400,000. The value of that 900,000 acres today is one-and-three-quarter billion dollars. This gives you a figure of $1,944 per acre. This is Washington and Oregon. It is good timber, and, of course, it is close to the market, but there again Canada is close to the United States market, too.

COMMISSIONER WALLS: I think you are overlooking the fact that a very high percentage of your marketable timber is not close or has not got roads to be able to reach markets, so you would have to cut that figure about in half again, would you not?

MR. RAMSAY: Let us cut the figure right in half. I agree with you. From $1,944, we will cut it in half, which would mean the value of timber in Canada, using the same figures, would be $440,367,000,000.

We say to ourselves, "Is our timber in Canada worth four hundred and forty billion?" We still have not included oil or uranium or any of the other metals, et cetera, so I say to you: is the figure of one hundred and fifty billion for all of Canada a conservative estimate? Is it a fair estimate of what we are worth?

THE CHAIRMAN: Let us get this clear. You raise the point as to whether it is conservative. You also say is it fair? The two do not necessarily go together. From what you have just quoted, it is extraordinarily conservative, but I would not think very fair.

MR. RAMSAY: What do you think would be fair?

THE CHAIRMAN: You said four hundred and forty

billion for timber?

MR. RAMSAY: Yes.

THE CHAIRMAN: And you have added a great deal to that. Surely it would be a great deal more than one hundred and fifty billion?

MR. RAMSAY: It is like Mr. Walls said: the value of any land is set by how close you are to the market; how close you are to the people.

COMMISSIONER BEAUVAIS: Would you repeat what you said about the value of the one acre? Is that $1,940 per acre?

MR. RAMSAY: Yes. Now, this was quoted in Time of May 10th, 1963, and the name of the company was Weir Hauser Company.

COMMISSIONER BEAUVAIS: With 640 acres in a square mile, it means it would be $1,241,000. This seems to me very high for timber. This is the Pacific Coast?

MR. RAMSAY: This is Washington and Oregon. They have 900,000 acres there. However, I hope you do not misunderstand me. I am not trying to say that timber land is worth this amount. I was only able to find those figures and have tried to relate it to what we have in Canada.

F/PB/ss

COMMISSIONER BEAUVAIS: What is the source of your information?

MR. RAMSAY: Time Magazine, May 10th, 1963.

THE CHAIRMAN: We would like to ask one or two questions about the $150,000,000,000.00.

COMMISSIONER MILNE: I was wondering if the survey you quoted about the Pacific coast indicated the type of timber growth that commanded the figure of $1,944.00 an acre?

MR. RAMSAY: As far as I can remember this is land that has been used since 1900, 63 years, and it is reforested. I understand they put back as much as they took out. They are really into the farming business.

COMMISSIONER BEAUVAIS: On the Pacific coast it takes about 300 years for a tree to grow, a pine tree.

THE CHAIRMAN: The article goes on to point out they have accellerated the rate of growth considerably,to the best of my recollection.

MR. RAMSAY: This is only an isolated example. You can see by using this figure of $1,944.00 an acre you get $880,000,000,000.00. I agree with you they are high. I just wish we could make all of the forest land in Canada worth that amount.

THE CHAIRMAN: My only quarrel with you on this figure, if the figure means anything, I don't know why you cut off at $150,000,000,000.00. It seems to me you were so far away from the $150,000,000,000.00 that you are saying these figures are virtually meaningless, there is almost no relationship one to the other; is that not so?

MR. RAMSAY: Yes. I think our figure of

$150,000,000,000.00 was a conservative figure, but if we were to put Canada on the market tomorrow morning, what would we sell it for?

COMMISSIONER WALLS: Could it not be in that $150,000,000,000.00 you are taking into consideration its taxable value today whereas much of the timber value is going to be marketed over the next 50 to 100 years. In other words, the trees are at different stages of development and you cannot go in and clear out an entire area.

THE CHAIRMAN: Anyhow we have $150,000,000,000.00. Shall we stop on that point so far as the amount is concerned and go on to the next.

MR. RAMSAY: May I say something to Mr. Walls? He has put his finger on something that is very difficult. That is that values are predicated on future earnings. When you buy a piece of property, a piece of land you take into consideration what is it going to bring in in ten, twenty, thirty years. That is what leads to speculation in land, the future earnings of the land.

THE CHAIRMAN: Thank you.

COMMISSIONER GRANT: Mr. Ramsay, I would like to go back to your assessment figure. I have taken it down that your information which you have gathered from various sources shows that Canada has a total assessment figure of $10,000,000,000.00. That excludes values of land in Prince Edward Island and Newfoundland. Then you said the actual value would be estimated to be six times the assessed value. Have you a break down as to improved and unimproved land in that assessment?

MR. RAMSAY: No, I don't. As a matter of fact it is very difficult to come by figures that break down property values separate from buildings. In Ontario the figure is very precise and very clear, and in Alberta is very precise and clear, but in some of the other provinces you have to estimate, you have to take the total figure including the improvements and estimate the break down. In Ontario the land values show separately aa $2,369,000,000.00. That excludes your improvements, that is buildings. I think the figure you are trying to get is the improved farm land.

COMMISSIONER GRANT: I want to find out the basis of your assessment. Is it land value only?

MR. RAMSAY: Land value only.

COMMISSIONER GRANT: Without any buildings or improvements?

MR. RAMSAY: Or improvements.

COMMISSIONER GRANT: Do you find that towns or cities, municipalities will make available to you the figure across Canada of what are actual land values?

MR. RAMSAY: In some of the provinces, apparently, it is obligatory that they do show the land values separate from building values. In other provinces they don't. The ones I mentioned, Ontario, Alberta, New Brunswick, Nova Scotia and British Columbia show their land values very clearly, but in Quebec we had to estimate from the total assessment. We had to use figures for Ontario to find out what the land values were in Quebec.

COMMISSIONER GRANT: Would you have any opinion as to the basis on which land values are fixed? That is,

is there a tendency to put most of the value on the buildings and keep the land value low?

MR. RAMSAY: Well, I think the ratio might be shown by these two figures. In Ontario the land estimate is $2,369,000,000.00. The total assessment including lands is $9,861,000,000.00. The ratio there looks like about 25% land value and 75% improved value.

COMMISSIONER GRANT: That includes improved and unimproved land, does it not?

MR. RAMSAY: Yes.

COMMISSIONER GRANT: So there is a great deal of that land value that has no improvements on it at all, no buildings on it or no improvements?

MR. RAMSAY: On the land value figure I would say it is just land, and it doesn't take into consideration any improvements.

COMMISSIONER WALLS: Really the figures give no comparison because you are considering land with city improvements in the high ratio.

MR. RAMSAY: Yes, that is the total for Ontario.

COMMISSIONER WALLS: It includes Toronto real estate, all these skyscrapers and everything else?

MR. RAMSAY: Right.

COMMISSIONER WALLS: So it doesn't really give you any relationship of whether the land is under-assessed or over-assessed.

THE CHAIRMAN: It is not going to change the $150,000,000,000.00.

MR. RAMSAY: I think Mr. Farmer has a few comments.

MR. FARMER: Might I speak to that point. There has been a trend in Ontario for higher assessment on buildings. This is a matter of the assessor's choice. It is not a matter of legislation. In Ontario in 1926 the total land assessment was slightly greater than the building assessment, about 2%. At present land assessment is less than 40% of the building assessment. I know this from information I have picked up here and there that there is a strong tendency to assess unused land particularly at an extremely low ratio. I know of two cases, for instance, where Boards of Education have attempted to obtain land for a school site. In one case the Board paid 88 times the assessed value for the school site. In another case they offered 64 times the assessed value for a site. When the owner refused to sell, they attempted expropriation proceedings and when it came to Court the Judge placed a valuation on the site 108 times the assessment. It is only by careful study and comparison of such figures that Mr. Ramsay obtained from the Department that one can find out what the actual ratio of assessed values to market values is, either as regards the land or as regards the buildings. Now, the Department probably has no figures to show just how assessments compare with regard to well-improved properties and badly-improved properties or vacant properties it is quite unmistakable that tendency of the assessors is to assess on the whole, with many local variations, vacant land at the lowest ratio, badly-improved land, slum property, at a somewhat higher ratio and well-improved property at a still higher ratio.

This, of course, has very different economic and social results.

THE CHAIRMAN: Thank you, sir. Then we have assessed value of approximately $60,000,000.00, six times $10,000,000.00 without improvements.

COMMISSIONER GRANT: That is the actual value?

MR. RAMSAY: That would be market value under present conditions, yes.

THE CHAIRMAN: Adding to that something for natural resources we have got $150,000,000,000.00, and a rental value of 7% thereof, I think which is ten and a half billion dollars. I was wondering where the 7% came from?

MR. RAMSAY: 7% is just about what any business-man would expect on his investment in this year, 1963. It could go up or down slightly, but 7%, I think is a fair estimate of what money is worth today.

THE CHAIRMAN: Thank you. Then, in order to meet the cost of Government it would be necessary to assess then, I would suppose, at about 100% because of the three levels of Governments, the total cost would be something like $10,500,000.00; is that not right?

MR. RAMSAY: Yes.

THE CHAIRMAN: So if one took the present assessed value of land, raised it up to market value and applied 7% to that, the result would be the tax which should be payable to all levels of Government under this proposal?

MR. RAMSAY: Yes.

THE CHAIRMAN: Thank you, Mr. Ramsay.

COMMISSIONER WALLS: Could I ask one question.

What was your source that in Ontario the assessed value of land was one-sixth of its actual value?

MR. RAMSAY: The actual figures that I have are from the Ontario 1961 Annual Report of Municipal Statistics. That is the assessed value I mentioned a moment ago. The other figure, the six times was a statement of Mr. Sloan, who is, I believe, the chief assessor of Ontario. I think that is his official position.

COMMISSIONER WALLS: Thank you.

COMMISSIONER PERRY: Mr. Ramsay, I think the basic thinking here is clear. That is that the main increment in value created by a community is in land values and this should be recaptured. Is it impossible for you to concede that there are other values created by a community which should be recaptured as well? I am thinking, for example, of our educational system which creates most of the values which results in skills which in turn creates income. Does this mean anything in your concept at all, or is it entirely foreign?

MR. RAMSAY: It is not entirely foreign, but I would say this: In the Science of Political Economy you can measure land. You can measure values created as far as land is concerned, but I doubt if you can measure values created by education, although they are very important, very necessary. I don't think you can precisely measure them, but you can measure land.

MR. FARMER: Once more may I speak to that? Education actually does add a great deal to the value of land. I believe that the total values of land in a Mexican

city are less than one-third of the value of land in a Canadian city of the same size. One can think of quite a number of reasons for that, but one reason, undoubtedly is that the Canadian citizen is much better educated and being better educated he is more productive and being more productive he can demand and require better public services. In all cases the value of land is very largely the value of public services. Where there are no public services the value is extremely small. Where there are very important and expensive public services, the value is large. As public services improve the value of land goes up. Where they deteriorate the value of land goes down. My friend, G.H.E. Patterson who was connected with the School of Economic Science for a number of years remarked at one time that he believed that the building of Northern Vocational School added more than twice the cost of building the school to the value of the land within a radius of the distance a student might walk to that school. Education is just one of many public services and unless public service is very badly judged, it adds to the value of land, at least as much as the cost of the service.

COMMISSIONER PERRY: In your concept all public activities are to be measured in terms of their effect on thevalue of land?

MR. FARMER: Yes.

COMMISSIONER PERRY: This is where one recaptures the effect of these public activities?

MR. FARMER: If a public service does not add to the value of land at least as much as it cost, the public

service is either badly judged or badly administered. Of course, if we take the land as the principal approach -- it would more accurately state the principle of the School if we said what the school recommends is that taxes should be levied on privilege, not on earnings. Land title, of course, is the most important of all privileges granted by a Government body. There are others such as taxi cab licences or any other permit that is arbitrarily limited. In Toronto the privilege of keeping a dog is a privilege open to anybody, but only open upon payment of a tax. That tax is a payment for a privilege, and if it is desirable to limit the number of dogs to those who are willing and able to pay $2.00 a year, the regulation is well justified. It does state the principle more clearly to say it is a tax on a privilege,rather than it is a tax on the land values.

COMMISSIONER PERRY: The privilege of having sole ownership of land being the most valuable in your view?

MR. FARMER: Definitely.

/MR/dpw

COMMISSIONER PERRY: The privilege of having the sole ownership of land being the most valuable, in your view.

MR. FARMER: There are declarations of a number of Supreme Courts in the United States cases of different States that land is not private property but a land title is a privilege granted by the State.

COMMISSIONER WALLS: Which the State, of course, can take away from you by expropriation very readily.

MR. FARMER: It can, yes.

COMMISSIONER GRANT: How do you apply your doctrine to land which is used in the public service, such as a hospital that could be owned by (a) a municipality; (b) a provincial government, or (c) a voluntary institution supported by voluntary subscriptions from the public?

MR. FARMER: In that case, as a matter of bookkeeping the land should be valued and taxed. Some institutions are supported by voluntary associations, in many cases, and also by municipalities or provincial governments and it would give a truer picture of the actual cost if the normal taxes on the site were reckoned, because they are part of the cost of maintaining the institution.

COMMISSIONER GRANT: This would involve an amendment to the British North America Act. Have you considered that?

MR. FARMER: Well, we know perfectly well there are enormous difficulties in the way of applying ethical principles in taxation. Our system of taxation

is derived from that of Britain where it grew up at a time when economic conditions did not come into the picture at all and in levying the taxes ethical consideration was less, if anything.

Now, an important step was made in 1850 in Ontario when the precursor of the present Assessment Act was passed requiring that all land should be assessed and taxed on the market value. Previous to that vacant land was not taxed. There were very good reasons for that, but it took a fight that lasted for years and constant arguments, discussions, in the Legislature before the Act was passed.

There was tremendous opposition to it. Great opposition to any ethical tax system, of course, is by the private interests which are affected by it. They will oppose anything to the limit by all means within their power.

COMMISSIONER GRANT: Let's pursue the hospital angle a little farther and say that you are unable to tax the land due to the nature of the building and the arrangement which might exist between the municipal government and the owner of the building. How would you be able to tax the physician and the doctor or the surgeon who used that hospital to practise his profession, from which he derived his livelihood?

MR. FARMER: Well, I think the doctor's fees would be arranged in accordance with what privilege he had there. Professional men's incomes often seem large to those who have had scant training, but they are not large when one considers the amount of time that is

spent and the amount of earnings lost in preparing for the profession.

The fact is, of course, any professional man who earns a great income is bound to occupy a good site and he is bound to pay taxes on that site.

COMMISSIONER GRANT: How would he pay the taxes, Mr. Farmer, if the land itself is not taxed?

MR. FARMER: You are speaking of the tax exempt. I consider that the exemption of such institutions as private schools and hospitals owned by hospital associations, that is, in effect, a subsidy granted by the taxing body.

As I remarked a little earlier, it would be better bookkeeping, better accounting, if the tax was levied but any grant increased in proportion. The exemption for such institutions from taxation is a rather clumsy form of circumvention.

COMMISSIONER WALLS: At the top of page 4 you start off with a statement which is one that has been made previously to the Commission. It is quite a popular one: "The Canadian citizen is now at the breaking point where he pays taxes..." First of all, based on the last figures that have been placed before us, it would appear that the Canadian taxpayer's load is not as heavy as many of his counterparts elsewhere. Out of 22 leading nations, outside of the Iron Curtain, Canada is in thirteenth position in the relationship of its taxes to its gross national product.

Now, the point I am trying to get at is this: we still have to raise the same amount of revenue, or

approximately the same amount of revenue we are raising today and really all that you are suggesting is moving the tax load from one set of shoulders to another, without actually relieving the total amount of taxation collected; am I not correct?

MR. FARMER: If I may speak to that again; the experience of Australia has shown very clearly that removing the tax from buildings, that is, local taxes from buildings, and moving it on the land, considerably reduced the total tax burden. Municipal taxes in Australia are a lot lower than they are in Ontario.

Now, exact comparisons are not easy because in Australia the cost of education, of police, is paid not by the municipality but by the State. However, all Australian states also collect a number of taxes on land in addition to the municipal taxes.

Now, the reasons for that are clear enough, once one begins to think it over.

In the first place, it is now well-known that slum areas demand very expensive municipal services, and that where there are slums that exist, the cost of servicing those areas is greatly in excess of the taxes collected. Where the slums are rebuilt, the total expenditures decrease.

Now, in Australia, in Sydney, for instance, a city of about the area of Metropolitan Toronto, the slum areas were very small and are gradually growing less. In Ontario, in spite of redevelopment and public housing, the slum areas are becoming larger and worse.

Another thing is that while the taxes in the

Australian municipality have not been high enough to eliminate the amount of speculation; they have curtailed it so that there are not the same demands for unnecessarily extended public services of all kinds. The difference between the demands on the municipalities in Australia and in Ontario are not as great as might seem because about one-third of the municipal expenditures for Ontario, expenditures that were made by the municipality up to 1930 or 1934, have been undertaken by the Government and about one-third of former municipal expenditures are now made on various services from the province. That compensates pretty well for the fact, as I mentioned, police and education are paid for by the State in Australia.

There is another thing: you are well acquainted, no doubt, with unemployment figures in Canada. In Australia the figures are very much lower and part of the unemployment they have seems to be due to rather an unfortunate monetary policy the Government put into force a couple of years ago.

But comparative analyses have shown employment is increasing in the Australian municipalities which have abolished the taxes on buildings much more rapidly than in those which still tax buildings. In fact, one comparison was made in the State of Victoria over a comparative brief period and it was shown that in a municipality where they still tax buildings there is a considerable decrease in factory employment and in a much smaller number which have abolished taxes on buildings, the employment increased enough to more than compensate for it. Large amounts of the welfare

expenditures are undoubtedly made necessary by our system of taxation and would be unnecessary if the taxes were adjusted to any considerable extent.

In Australia, of course, it was only the one particular tax that was transferred to the land. That is the tax on buildings and improvements but other taxes could also very well be shifted over in the same manner.

COMMISSIONER PERRY: I think it might be difficult to disentangle cause and effect in a good many of these cases. Normally, government removes taxes at a time when employment is buoyant and conditions are prosperous and they find they can make tax reductions. 2 This is the chicken and the egg argument, of course, as to which comes first. It may simply be the Australian states which have exempted buildings have done so because they have been able to do it.

MR. FARMER: I don't see any evidence at all to support that view.

COMMISSIONER PERRY: I have also talked to people from Australia.

COMMISSIONER WALLS: I cannot get away from the fact that, based on your philosophy, the sooner I get out of farming, where the land is a necessary feature of my livelihood, the better.

MR. FARMER: Unfortunately, the farm property values are a constantly diminishing part of the whole. At one time they were more than 50% of all values. Now, they are hardly one-third.

COMMISSIONER PERRY: I wonder if we might come to that more generally and ask what incentives there

would be to retain ownership of land when your plan was implemented?

MR. FARMER: In Australia they are still holding a good deal of land vacant for a rise in value.

COMMISSIONER PERRY: Let's come back to Canada. What incentive would there be in Canada to retain ownership of land?

MR. FARMER: Why, to use it. It is hardly practicable to impose taxation on land to the point where it takes every last dollar of the rent. The whole of the land is bound to profit by holding, if he is using it. The practical point is that imposing taxes on a privilege rather than on earnings, or property, does have the effect of making it less profitable to hold land vacant or to abuse it, as by holding it in slum condition. It is much more profitable to put it to good normal use, as in Sydney.

I can remember when the Sydney slums were notorious and people prided themselves in Toronto on having a city without slums, although to be sure we did have some incipient slums at that time. Since then, slums in Sydney, as H.B. Cowan said, have 90% disappeared.

COMMISSIONER PERRY: Let's talk about the Canadian taxpayer. I am a Canadian who owns a little piece of real estate from which I am getting an income. Your new plan would take that income all away from me. Why wouldn't I simply say, "Here, you have this property. It is no longer of any interest to me. I am going to get a job where my income will be entirely exempt from tax. I am going to get a job, in other words."

MR. FARMER: If you get a job, you will still have to pay rent to somebody or else have to pay on another piece.

COMMISSIONER PERRY: No, I don't mean that. I mean you become an employee of someone.

MR. FARMER: Then the rent he pays will come partly out of your wages and partly out of the price he gets for the commodity. It has to be paid. You cannot do away with land value, any more than you can with sex.

COMMISSIONER PERRY: This tax that is being passed on to me would not be a 100% tax on my income. If it is, we have reached the point of complete futility.

MR. FARMER: Well, the only income that would be taxed 100%, under the 100% single tax program, would be that which comes from pure ground rent.

In Toronto there are a considerable number of sites which are owned independently of the buildings. One man, or one corporation, owns the site and another owns the building. Of course, no ground rent, which is purely a privilege, would be subject to tax under the program we suggest.

COMMISSIONER PERRY: In the heart of the city that rental value may represent a good deal of the yield of the business.

MR. FARMER: In certain parts of Toronto the land value is certainly greater than the value of the buildings, even though the buildings are quite valuable. The assessments have shifted a good deal. Back 20 years ago there were a number of important downtown areas in

which the land assessment was considerably higher than the building assessment and they were areas in which the buildings were very important, too.

COMMISSIONER GRANT: You lay emphasis on the fact that government properties are exempt from land taxes.

MR. FARMER: There again, as a matter of accounting, I believe it would be better if the Government paid itself the taxes. That would give a truer picture, as I mentioned, of the actual cost.

THE CHAIRMAN: You suggested a few minutes ago, Mr. Farmer, that a measure of the results of public service would be its effect on land value. In discussing education you made the point that education increased land value. That left me wondering whether you could really associate the sums being spent on the space program, of which we are so conscious today, with increased land value. Have I taken you outside your terrestrial connection where you can't find one?

MR. FARMER: Of course, there are a great many people who are highly skeptical as to the actual value of this space program. It is problematical, of course, but a great many think that that money could be spent to very much more advantage in making proper use of the planet on which we are, rather than trying to get to others.

THE CHAIRMAN: You are certainly free to challenge the judgment of the persons making the expenditure. They obviously represent the taxpayers of the country who are making the expenditure and I think, for this purpose, one should accept that they are doing what

the country wishes them to do, and I would think that a judgment must be based on their guess that it will improve conditions for the people of that country in some manner. I don't know in what way.

Do you associate those with land values in any way? I don't think so.

MR. FARMER: Well, it is a little hard to see how they improve the condition of the people. If they result in a great deal of improvement in the condition of the people, of course, it will be reflected in land value. If not, the question arises whether it is not a pure waste.

COMMISSIONER WALLS: Maybe we will be able to tax the land value on the moon.

MR. FARMER: I heard some people are already trying to sell sites on the moon. I would like to raise the point that H.B. Cowan found out.

In Australia and New Zealand, of course, the movement for more taxation on land, generally in the form of exempted buildings and improvements and putting the local taxes on land - that had been going on since before the turn of the century and almost every year a number of municipalities have got taxes on buildings. H.B. Cowan went over there for a study, which lasted several years. He went over there in the belief that making that change would depress land prices. This belief was held by both the people that advocated the change, and those that opposedit; from that standpoint it would lower land price but Mr. Cowan found it did not lower land prices.

At first thought one would say, "Well, here is a lot that rents for $1,000 a year." The taxes on the lot would be increased by $200 a year. I mean, the selling price of the lot will drop by twenty times, or a little more than $200.

H/EMT/ss

However, it does not work out that way. What actually happened was that discontinuing taxes on buildings promoted building, and with it, production of various kinds. That increased the demand for land and land prices were as high as ever. Obviously that tendency cannot last forever, but certainly it is possible to make a very considerable increase in the taxes on land with an appropriate decrease or abolition of other taxes without impairing the interests of the landholder to the extent of a single dollar. It is a net gain through increased production and employment.

Our brief does not go into a lot of these points, because it was simply outlining the principle, but a sound principle does work out well in practice. We hear people say sometimes it is all right in theory, but it won't work out in practice. If it does not work out in practice, the theory is wrong. That is the test of scientific development. If the hypothesis is found to work out, the hypothesis may be erected into a theory or law, but if it does not work out, then it has to be abandoned. As far as it has been tried out, the land taxation hypothesis has validated itself wherever tax on privilege has been increased and tax on production diminished, production and the general welfare has increased.

I could give you many examples of that kind of thing; comparisons with Canadian provinces as well as Australia, but that has to be left to another story, as Kipling says.

THE CHAIRMAN: I think I can say, Mr. Farmer,

we can accept your statement as to theory and practice without reservation. I cannot speak for my associates on the general concept of your tax principles. I do not know what their views may be.

I do not think we have any more questions. We are very grateful to you indeed for taking the time and trouble to put this before us and for explaining it so very carefully to us. Do you have any further statements you wish to make to us?

MR. RAMSAY: I would like to make a few remarks, sir.

THE CHAIRMAN: Certainly.

MR. RAMSAY: On page 12 it says "To sum up, land is the entire universe except man and his products", which would cover the outer space program. Land is the entire universe except man and his products. Therefore, any value that we get from outer space in the next ten, twenty, thirty years, whatever we find on the moon or Mars or Mercury can be considered as the warehouse that man uses just as the atmosphere can be.

MR. RAMSAY: If it has any value it will only have value because we get there and we do something with it. If we take possession of it. Therefore, we do not limit ourselves only to the earth.

I did want to make one point of something Mr. Walls said earlier. I own a house in Suburbia which cost me $15,500.00, and I made a close study on the value of the house, the size, the building construction, etcetera, and I found out there is an item in that $15,500.00 of

$3,000.00 for land. This is exclusive of the services, sidewalks, sewers, etcetera. There is the item of $3,000.00 in there for the privilege of moving onto the land.

Like most good Canadians, I have a 25-year mortgage, and by the time I have finished paying for the $3,000.00 worth of land, it will be $6,000.00 including the interest. Now, $6,000.00 is just about one year of my life that I will have to work to pay somebody else for the privilege of being on that piece of property. At the same time my taxes are going on and on and on, so that there is that idea of privilege that somebody else got from the community that I have to pay for with the year of my labour.

It does not make me very happy to think about it. I would assume that nearly all the rest of you are in somewhat similar circumstances. Also in all of the products that we buy there is this hidden rent that is taken, not by the community which originated it, but taken by an individual who, through our own tax laws, has been granted this right or this privilege. It is something that I think we can think about.

COMMISSIONER GRANT: Mr. Ramsay, your theory is capable of adoption at any level of Government that has taxation powers, is it not?

MR. RAMSAY: Yes. As a matter of fact, the B.N.A. Act does specify that the Federal Government can levy taxes at will, whatever taxes they need, so there is the authority in the B.N.A. Act to take this type of tax.

COMMISSIONER GRANT: It can be adopted on a national level or adopted by any municipality?

MR. RAMSAY: Yes. You know maybe this idea of land value tax is not foreign to us because we do have a land value tax right now. All our property is taxed. The idea that we are trying to get across is this: You have to take the complete rent, you have to take the complete value of the land, because if you leave some value over you get speculation, and when you get speculation you get high land prices.

There is a piece of property opposite the King Edward Hotel. I think it used to belong to Imperial Oil. The selling price on it now, the asking price is three and a half million dollars per acre. Now, you remember in the story we went up to ten-land and nine-land.

We are up to three and a half million land now. I daresay there may be examples in downtown Toronto with smaller parcels that might even run higher.

COMMISSIONER WALLS: E.P. Turner would own both pieces.

MR. PHILLIPS: I would like to bring out a point we have discovered in stating this theory of ours: We have noticed particularly the effect of taxation on land to be almost the opposite of taxation on production, any form of income from production.

In other words, with taxation on land value we find production is released for further effort. Today we are meeting here to discuss taxation, because we are finding that production is slackening down. There are

impediments to our growth, but if we follow the idea of land value taxation through to its source we find that by imposing tax on the land value we will release that land or more land to production processes which automatically enhances the wealth we have in the country and furthers the demand for more land and increased values at the same time.

THE CHAIRMAN: Thank you very much, gentlemen. That is all we have to say, except that we are obliged to you for coming this morning and making this excellent presentation.

MR. RAMSAY: Thank you, sir.

THE CHAIRMAN: We stand over until tomorrow morning.

THE SECRETARY: Until tomorrow morning, Mr. Chairman, at 9:30, when Mr. Roger Pocock, an individual, is appearing and the Canadian Jewellers' Association.

---Adjournment.

ROYAL COMMISSION

ON

TAXATION

HEARINGS

HELD AT
TORONTO
ONT.

VOLUME No.: 21

DATE: May 15, 1963

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ROYAL COMMISSION ON TAXATION

Hearing held in Howard Ferguson Auditorium, Sir Daniel Wilson Residence of University College, University of Toronto, Toronto, Ontario, on Wednesday, the 15th day of May, 1963.

COMMISSION:

MR. KENNETH LeM. CARTER -- Chairman

MR. J. HARVEY PERRY

MR. A. EMILE BEAUVAIS

MR. DONALD G. GRANT

MRS. S.M. MILNE

MR. CHARLES E.S. WALLS

LEGAL ADVISER:

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SECRETARY:

MR. G.L. BENNETT

ANGUS. STONEHOUSE & CO. LTD.
TORONTO, ONTARIO

ROYAL COMMISSION ON TAXATION

HEARINGS HELD AT THE CITY OF TORONTO, ONTARIO

May 15, 1963

TOPICAL INDEX VOLUME No. 21

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Toronto, May I5, I963

Volume No. 2I

ANGUS. STONEHOUSE & CO. LTD.
TORONTO. ONTARIO

Toronto, May I5, I963

The Canadian Jewellers' Association

Volume No. 2I

INDEX OF EXHIBITS

PB/dpw

--- On commencing at 9.30 a.m.

THE CHAIRMAN: Mr. Secretary, would you introduce our visitor to us?

THE SECRETARY: Yes. Mr. Chairman, Commissioners, Mr. Roger Pocock is with us this morning. He has submitted a brief which was received in Ottawa in March. He is here to speak to his brief this morning. I would like to enter Mr. Pocock's brief into the record as Exhibit No. 64.

--- EXHIBIT NO. 64: Submission of Mr. Roger Pocock.

THE CHAIRMAN: Thank you, Mr. Secretary. Good morning, Mr. Pocock. Please be seated. There is no need to stand unless you wish to do so. You are here as an individual citizen, I take it, with an interest in the subject that has caused you to prepare this submission that you would like to put before us, and which we are very glad to have, I might say.

Sometimes people appearing wish to speak to their submission, to modify, amplify or say whatever they please with regard to it, or sometimes we commence by asking questions. We have a few questions. If you would like to say a few words beforehand we would be very glad for you to do so. Particularly, we would like to know what your position is, why your interest in taxation, and anything else you would like to tell us about yourself.

MR. POCOCK: I have no connection with taxation. I am a mechanical engineer with the Nuclear Products

Division of Hawker-Siddeley. I guess my only qualification is that I am a taxpayer, that is about all.

THE CHAIRMAN: A very good one.

MR. POCOCK: I have just pointed out regions I think are worthy of investigating, not actually a definite plan which I would like to see carried out at all. I might add that what I have submitted is just a very brief outline and experts will have to go through it to see if it is possible to implement such a type of tax. I notice from the submissions before the Commission that they are mainly for reductions or modifications in existing tax, whereas mine is suggesting additional or new tax.

There again, I see, with the balance of credit, you have more deductions requested in taxation than additions, so there is a balance on the other side. There is one region here - do I need to read through this?

THE CHAIRMAN: No, we have already read it. Don't read it to us. You may speak to it or just carry on as you are.

MR. POCOCK: There is one recommendation, the reduction of municipal property tax. I put this in mainly because it is something I am more associated with than anything else. It is not directly associated with the federal tax system, but I think if the municipalities can collect their taxes more efficiently then they will be less dependent on the federal tax for subsidies for education and so on, and also if they can get the business and new assessment and new development this is a benefit to the country in general, although mainly to the municipality. I think the entire country would benefit.

Then, the first part I mention is the tax on capital gains from stock market transactions. I think it is quite a fair means of taxation because the people who deal in buying and selling stock - these people don't do this for a living; they are people who don't depend on profits from stock for their livelihood. I roughly divide it into three groups: the institutions, like the insurance companies; retired people, who are dependent on the income from stocks for their livelihood, and people who invest in stocks mainly as a hobby for making money, people who already have sufficient income, that have been working all their lives and like to play, to deal in the stock market just to make an additional income.

None of these groups, I feel, would object to this tax. In fact, this tax is over and above what is a legitimate gain and would be quite reasonable, I think. Anything over and above the 7% per annum would be taxed at a fairly high rate.

The second section of my submission is on the land tax or real estate tax. Here again, I figure this will only bring appreciable amounts of revenue from the land sales in the regions of large cities where there is a lot of change of hands before the land is finally used by the builder. It will also reduce the amount of land lying idle. I was hoping it would render speculators speculating and buying up farms -- it would divert their money to mortgages and thus encourage building in its correct sequence, sub-dividing a certain amount of land and getting it built and then going on to another part rather than a lot of people trying to make money fast by

buying up land fast and hoping someone will come along and want to sub-divide it.

Here again, a tax, I believe, would be a benefit. I don't think anyone would object strenuously to that type of tax. That is pretty well all I can say at the moment.

THE CHAIRMAN: Thank you, Mr. Pocock. I think we will address ourselves to your points Nos. 1 and 2. I have a word to say about No. 3, but I don't think we will go further into 3 at the present time. You direct yourself to taxation of stock market transactions of the size that any profit over what you refer to as normal, measured at 7%, is in the nature of excess profit on stock market transactions, which should be taxed.

MR. POCOCK: Yes.

THE CHAIRMAN: That is 7% of what; 7% of the cost?

MR. POCOCK: Seven per cent of the investment, the original investment.

THE CHAIRMAN: For a period of time?

MR. POCOCK: Seven per cent per annum over any period of time. This would have to apply to stock whether purchased one week and sold the next, like a speculator in stock might, although the profit there would be very small if one were buying one week and selling the next.

THE CHAIRMAN: Why would you have a special rate of tax? Why not have the ordinary personal rate, the tax on the individual for income?

MR. POCOCK: Here again, I figure this tax would be better if collected right at source by the

broker or bank by whom the stock was sold. If it was paid this way it wouldn't come on the tax return at the end of the year.

THE CHAIRMAN: How would you collect from the Canadian speculators with securities outside of the country?

MR. POCOCK: This does present a problem, but if they were sold through a broker in Canada I think the tax could be collected then.

THE CHAIRMAN: Lots of Canadians would simply use a New York broker, wouldn't they?

MR. POCOCK: They probably would, I suppose, yes.

THE CHAIRMAN: I would be inclined to fear you might put Canadian brokers out of business.

MR. POCOCK: Yes, I suppose. They do have a tax in the United States of capital gains from stock but it is reported at the end of the year with the yearly return.

THE CHAIRMAN: I was really thinking you would make the cost of brokers' work more expensive in this country than it would be in other countries, and consequently there would have to be a higher brokerage charge. If the stockbroker had to trace through all transactions and report the cost and the profit on them he would have a great deal more work to do than he has now. It may be desirable; I am not suggesting it isn't - it may be.

2 MR. POCOCK: It wouldn't be added to the brokerage charge, but deducted from the amount of tax he submits to the Federal Government, keeping the brokerage charges as they are at present.

THE CHAIRMAN: He would charge additional

services up to the Federal Government.

MR. POCOCK: The thing is, people collecting the provincial sales tax are allowed for collecting the tax.

COMMISSIONER BEAUVAIS: How could the broker know the amount of the capital profit, because I could buy a stock from one broker and sell it to another broker? If he has to withhold the tax he has to know what the capital gain is.

MR. POCOCK: He has to know the buying price, yes. It is recorded and he can get this from the records. Also, when a person buys stock they always get a transaction slip that says "We have bought for you this day for your account" and so on. It might be necessary for the buyer to hold this and submit this at the time he is selling because he might not have registered the stock. Whether the stock was registered or not, I suppose he should keep the statement so the selling broker does know the profit.

THE CHAIRMAN: I assume you would allow losses, would you? You do not deal with those.

MR. POCOCK: Well, I suppose it would have to work both ways, yes.

THE CHAIRMAN: I would think so. Would you allow them as a deduction on ordinary income?

MR. POCOCK: No. Here I would think you would only allow the loss if there had been a gain.

THE CHAIRMAN: In the same year?

MR. POCOCK: There would have to be a period of time, probably not the same year. I think it would have

to be a longer period than one year; probably five years.

COMMISSIONER BEAUVAIS: Would you make a difference between investment and speculation?

MR. POCOCK: No; all the same. On investment there would probably not be very much tax because they would probably be happy with the 7% per annum. The speculators would have to pay probably more tax.

COMMISSIONER BEAUVAIS: What about profit made on the sale of bonds and the discount of bonds?

MR. POCOCK: Here again, this would probably come within the reasonable gain. It probably wouldn't be much in excess of 7%.

COMMISSIONER BEAUVAIS: Your brief doesn't mention bonds.

MR. POCOCK: No, it doesn't mention bonds. This is going into it more deeply.

COMMISSIONER WALLS: In this thinking of yours to discourage speculative stock buyers were you, to any extent, guided by the new British legislation in that regard?

MR. POCOCK: No.

THE CHAIRMAN: Are we ready to move to Item 2?

COMMISSIONER PERRY: I was going to say, Mr. Chairman, Mr. Pocock probably realizes once you get into allowing losses then you must have some sort of return. There must be some time when you bring together all your transactions and offset losses against gains; in other words, the simplicity of the deduction at the level of the broker breaks down if you are going to make these comprehensive calculations. In other words, I don't see

how losses can be taken into account under a simple system.

MR. POCOCK: No, this is a region that requires considerably more thought.

COMMISSIONER PERRY: As you probably know, it is a feature of a well-developed capital gains tax system that losses are recognized.

MR. POCOCK: I appreciate they would have to be recognized.

THE CHAIRMAN: If you look at your real estate suggestion you indicate a similar tax on real estate transactions which are speculative and you suggest that they be taxed in excess over 2%. Why 2% per annum? I was curious how you came to that figure. Seven per cent looks like a fairly normal amount on stock. I don't understand the 2%.

MR. POCOCK: These probably involve larger amounts of money. The figure I say is 2%. This was just a figure for starting, a figure for talking around. It seems not unreasonable as a land developer would be allowed - wouldn't be taxed on the profit he would make from developing the land, like building roads and subdividing, putting in sewers and all the engineering he would do. He would get his normal profit. This is just 2% on invested income.

COMMISSIONER WALLS: Your 2% example is dealing with the original landowner, the farmer, not with the land speculator. Why wouldn't you allow him to have a larger return?

MR. POCOCK: The land speculator, if he buys and sells this land in one year, he makes very little profit as capital gain. He would have to make his profit

by actually doing work on the land. This tax is not designed to discourage people buying land, just building it and selling it, but to encourage people to buy property and actually do something with it.

THE CHAIRMAN: They are paying taxes, not on the excess over 2%, but on the whole amount.

MR. POCOCK: As a land transfer tax?

THE CHAIRMAN: Speculation in land is generally taxed as income. If a speculator buys and sells land he is taxed on it. It is not a capital transaction. It is an income transaction.

MR. POCOCK: This amount is paid with his yearly return?

THE CHAIRMAN: I am sorry, I didn't hear you.

MR. POCOCK: This is paid with his yearly return. I am suggesting this also be deducted at source by the Registry Office.

THE CHAIRMAN: We have the same difficulty, of course, with regard to losses as we would in stocks.

MR. POCOCK: Yes. Here again, he would have to have paid a certain amount of tax before he could reclaim anything of a loss. If he had a loss and had no gain he wouldn't be able to claim.

COMMISSIONER PERRY: This 2% in your calculation; is it compound interest over a 100-year period?

COMMISSIONER WALLS: Yes, it is. I worked it out.

COMMISSIONER PERRY: It seems very small. I always imagine $300 amounts to a million dollars in a hundred years with compound interest.

COMMISSIONER WALLS: I am rather surprised at some of the figures you put down. Just for the record, you have an arbitrary figure for land improvement of $4 an acre in order to prove your point of profit made on a piece of farm land. You can't improve land for $4 an acre or for $40 an acre, in some cases. It depends on the place. Your figure is extremely low.

MR. POCOCK: This is, but other figures might be a little on the high side, the cost of clearing. The figures would have to be established at the time the tax was applied to a certain transaction.

MR/ss

COMMISSIONER WALLS: Don't you think when giving an example it would be sounder to lean over backwards, rather than prove your point by making a very large spread? First of all, I think on his investment over the years on the land he is entitled to more than 2%. Secondly, certainly the figure of the land improvement would have been very much larger and then, of course there would not have been the exorbitant profit you showed in your illustration.

MR. POCOCK: Yes. That is so. This would be up to the assessor to go through the figures and to establish things like land improvement. As you say, it may be closer to $100.00 an acre.

COMMISSIONER MILNE: Mr. Pocock, I want to see if I understand you correctly. In taxing the land developer are you suggesting that in filing his return he would now be paying a tax in this manner: That is on capital gain instead of income?

MR. POCOCK: Yes. This would be collected at the Registry Office when he sold a certain piece of land to a builder, and the builder would pay any tax, and so on --- no, the developer, he would pay the tax on this; when the developer originally bought the land from the farmer, the farmer would pay the taxes. They would be deducted. He would have to pay it directly to the Registry Office at the time the deed was registered. It is not held over until his yearly return. It is like a system of deducting taxes at source.

COMMISSIONER GRANT: Registry Offices are set up and controlled by the Provinces. This would be a Federal

tax, so your mechanics would call for some arrangement between the Federal and Provincial authorities to collect the tax?

MR. POCOCK: Yes.

THE CHAIRMAN: Mr. Pocock, I don't think there is a great deal of purpose to us going into item number 3, which is specifically municipal taxation. There is a place to which one takes matters of municipal taxation in Ontario, established very much in the same manner as this Royal Commission, and I have regard to the Ontario Committee on Taxation, established by Order in Council of the Province 55763, on November 21st, 1962.

They are required, amongst other things, to enquire into and report upon the taxation of the Province of Ontario and its municipalities. This is their job and if we enquire into municipal taxation, we would be repeating what they are charged with doing.

Now, there are other Royal Commissions established by other Provinces for the same purposes. We are not established to do the job of enquiring into municipal taxation. It would be much more extensive, of course, because we would have to be concerned with the municipal taxation of each Province.

I think little would be served by our enquiring into any more of your submission . I think we would simply recommend that you take it to the Ontario Committee on Taxation. I am sure they would be very interested in hearing from you.

MR. POCOCK: Right.

THE CHAIRMAN: We have no further questions.Thank

you very much indeed for coming here this morning to give us the benefit of your advice and assistance. If you have anything further to say to us, we would like to hear it.

MR. POCOCK: No. As I say, these were just regions that I figured you could look into just to see what they were worth as additional means of raising revenue.

THE CHAIRMAN: We are very glad to hear that. As you point out, we like to hear about additional ways of reducing revenue. If one can produce ways of increasing it, it might assist us to balance things out. We are required to recommend in such a manner as to maintain the revenue producing ability of the Canadian tax system.

Thank you very much, Mr. Pocock. We will stand over, Mr. Secretary.

MR. POCOCK: Thank you.

---Short recess

---Following short recess

THE CHAIRMAN: Mr. Secretary, I think we should start now. Would you introduce our visitors to us?

THE SECRETARY: Mr. Chairman, Commissioners, we have officials of the Canadian Jewellers' Association of Canada with us this morning. Mr. Gerstein is Chairman of the Tax Committee of the Canadian Jewellers' Association. He will speak first to the brief and introduce his colleagues.

I would like to enter this brief into the record

as Exhibit No. 65.

---EXHIBIT NO. 65: Submission of the Canadian Jewellers' Association.

APPEARANCES:

Mr. B. Gerstein
Mr. F.E. Belsham
Mr. J.S. Bliss
Mr. R.P. Brown
Mr. B. Ellis
Mr. G. Levenston

SUBMISSION OF
THE CANADIAN JEWELLERS' ASSOCIATION

THE CHAIRMAN: Thank you, Mr. Secretary. Good morning, Mr. Gerstein, gentlemen. We have read your submission to us. It is very well done; most complete. We do not need to ask you to read it to us. If you would care to speak to it, modify it or enlarge on it, we would be very glad to hear you. We have a number of questions which will await whatever you may wish to say. Mr. Gerstein, would you start by introducing your associates and please do not stand, unless you wish to do so.

MR. GERSTEIN: Thank you, Mr. Chairman. On my extreme right Mr. Fred Belsham of Morris J. Walsh, Diamond Importers. Mr. J.S. Bliss, of Oneida Limited. Mr. Brown, Secretary of our Association. Mr. B. Ellis of Birk's and Mr. Gerald Levenston, of Baumgold Brothers of Canada Limited, Diamond Merchants.

Mr. Chairman, if I may just take afew moments to amplify some of the statements and comments made in our

brief with respect to two particular areas. The first has to do with discrimination. Of course, the entire excise tax when it was originally introduced during the war was discriminatory but it discriminated against a whole body of goods and this was understandable at the time.

The discrimination, as it affects our industry, has been accentuated with the withdrawal of this tax on other areas. For example, a plain gold wedding band, which I would suspect is a necessity in the society in which we live, could we consider it to be less of a necessity, or less of a luxury than a set of golf clubs or fishing tackle?

Time today is of the essence. I suspect all members of the Commission wear watches and yet there still remains an excise tax on watches as distinct from cameras, or fountain pens.

Is a diamond engagement ring more of a luxury than a fur coat? Or a Cadillac car? These are the problems that concern us and a feeling that there is specific discrimination against our industry. Although we represent an industry, and do not presume to speak for the consuming public or the actual taxpayer, we suspect that they feel likewise because it is reflected in the rather depressed state, relatively speaking, of our industry.

The other area with respect to which I would like to make a few comments has to do with smuggling, and this is a very difficult thing to discuss and particularly difficult to write out in a brief, because

being illegal there are no official statistics and it is impossible to specifically document what those of us who work and live in this industry know and feel.

There are two particular areas of smuggling, one I think more serious than the other. The first area I think is the result of human nature. I am sure that most of your Commission Members, sir, like our own friends, have had occasion to visit Europe, particularly Switzerland and have come home with a watch.

THE CHAIRMAN: Paid duty on it.

MR. GERSTEIN: I will speak for my friends, sir. You speak for yours. As a matter of fact, I had occasion once to discuss this with the former Deputy Minister of National Revenue who asked me why is it the most respectable members of our community, the pillars of the church, leaders of the business community feel that the Government is fair game when it comes to customs and excise? So I speak not disparagingly about our fellow people. This affects not too seriously the manufacturers, but we felt we should mention they had spent money abroad on bringing back this merchandise, and the only way this could be controlled is if we had a police state and the price we pay for smuggling of this nature is little enough to pay for the democratic society in which we live.

The other area, that of professional smuggling, is a very serious problem to our trade, because it multiplies. It snowballs. The experience in the United States, as pointed out in our brief, when they raised the duty from 10 to 20%, they reached the point of

diminishing returns. Revenues decreased. They returned these duties to the original 10%, because this is a tremendous premium and diamonds are so easy to smuggle. In fact, sir, you don't even have to smuggle them. All you have to do is have a false invoice and you can actually bring them through customs.

There is no one at customs to check the parcels to see what they weigh and how many stones are in the parcels. There is no duty. There is no need for checking. This enables the illegal importer to have in his possession inventory for which there is no record, and this he disposes of in a like manner.

Particularly in some of the larger stones and not necessarily more expensive. It is very difficult for the manufacturers and the cutters. We have some cutters here in Toronto; it is very difficult for them to dispose of a karat and two-karat stones because they do have a record and that is the problem that concerns us a great deal, and although we can't prove its extent statistically, we know it and feel it. We feel it in the shrinking area of our sales of diamonds, and we certainly believe that the elimination of the 10% excise tax would do a great deal to help offset this smuggling.

THE CHAIRMAN: Thank you, Mr. Gerstein.

MR. GERSTEIN: Those are the two particular comments that I had to make, sir, with respect to the brief and its amplification and certainly we would be more than happy, any member of the Committee would be more than happy to answer any question that might arise.

THE CHAIRMAN: Thank you very much. Let me see that we all know about your Association. You represent 1,151 retail jewellers. 91 wholesale jewellers and 125 manufacturers. Therefore, you are the voice of the jewellery industry at all levels?

MR. GERSTEIN: Yes, sir. We are unique in that as a trade organization. We represent all levels of trade.

THE CHAIRMAN: You have said that you speak for your industry, not for the consumers. In speaking for your industry, the fact that these are consumption taxes to which you address yourself, and consumption taxes are normally passed on to consumers, I presume that you are interested because in the passing on of these taxes they affect your own business. You would sell more goods if you did not have to pass on taxes to the consumer. Is that right?

MR. GERSTEIN: Yes, sir.

THE CHAIRMAN: Do they have an impact on your members or are you successful in passing on all the taxes?

MR. GERSTEIN: There are two answers to that, sir. The first answer is when an excise tax goes into effect, we automatically lose the amount of the tax, because if we sell a $100.00 ring, a consumer comes into our front door to spend $100.00. He buys a $100.00 ring. Now, if that $100.00 includes $10.00 in tax, then we are, in effect, making a $90.00 sale, not a $100.00 sale, because the consumer receives only $90.00 in real value, plus the additional tax which he pays.

He doesn't pay $100.00 for a ring and then pay the excise tax in addition.

THE CHAIRMAN: He buys a cheaper ring than he would otherwise buy, or have you reduced the price of a $100.00 ring to $90.00?

MR. GERSTEIN: We have given him less value. We have given him less physical ring.

The other answer to the area in which we lose because of the tax, because of the so-called luxury aspect, we lost to other lines of business. Our biggest competitor today, sir, is not our fellow jeweller, but the fur merchant, the travel agent and those other areas who are competing for the consumer dollar.

We are not competitive today. That is why I say it is more discriminatory today than when there was a tax on furs and on golf clubs, and whatever it might be.

COMMISSIONER MILNE: This is something that I am wondering about, whether or not this type of operation comes within your group. There is a great impetus in the part of the country where I live to have some kind of a party to sell jewellery, and these sellers are individuals who have an assortment of attractive costume jewellery,and the price, well, it might be anywhere in the neighbourhood of something between $20.00 and $50.00 for the items that are displayed. There is a considerable sales promotion. The person who has the party receives some piece of costume jewellery free.

Is that type of operation something that comes within your group?

MR. GERSTEIN: I don't believe so. I would like

to ask our Secretary about that. I don't believe that we have any member who distributes merchandise in this manner. We do not.

/ET/dpw

MR. BROWN: I might just comment here, if comment is what you are looking for, that this is an extremely expensive form of distribution. This was the original distribution method of Wear-Ever Aluminum; any number of types of merchandise are distributed this way. It is an expensive and costly method of distribution, but so long as we live in a free society and consumers are free to buy where and when and how they will, we see no reason ---

COMMISSIONER MILNE: It was just something I wanted to find out.

COMMISSIONER WALLS: First of all, Mr. Gerstein, I think perhaps you have brought before us one of the more serious problems that the Commission is facing; that is, to what extent sales tax and excise tax will be part of any new tax structure that we may evolve. If there should continue to be a sales tax and excise tax or a sales tax with variated scale between different products instead of two taxes, then what will be the line of demarcation between products which should carry more sales tax and those which should carry less or the products that should carry more excise tax and those that should carry none? If you can give us some guidance as to where we should draw that line, that would perhaps be one of the greatest services that you or any other participant could place before us.

MR. GERSTEIN: I am sure you have economists and sociologists to whom you can direct this question more properly than to a poor retail jeweller. This is a moral question involving economists and sociologists. It involves the whole question of whether the Government, through taxation, should try and direct consumer demand

or impose a penalty upon those who wish to exercise their free judgment in the purchase. Should a man pay a higher rate of tax for a Cadillac car than for a Ford?

COMMISSIONER WALLS: Yes, but you made another comparison that could be questioned. You said: "Is the fur coat any more or any less of a luxury than a diamond ring?" Well, I can imagine if you ask a lady in Regina or Winnipeg she would be inclined to think a fur coat was a necessity.

MR. GERSTEIN: Indeed, but a mink or a muskrat. Any more, sir, than a ten-dollar gold wedding band; is it a luxury or a necessity in our society as distinct from a circle of diamonds?

COMMISSIONER WALLS: That would lead me to what seems to be a bit of a problem to me. You mentioned the effect that the excise tax has in retarding your industry. I can see where that might apply to cheaper items, but when you get into good jewellery, and I am not dealing specifically with diamonds -

it seems to me that the consumer first of all decides on the prestige of the retailer as one criterion.

The second criterion is the amount she pays for it. In other words, she prefers to be able to say she paid $500 for a ring rather than be able to say she paid $300 because the average consumer is in no position, as far as I can see, to be able to judge the merits between one piece of jewellery that costs $300 and one that costs $500.

MR. GERSTEIN: I think, sir, you have answered

the question yourself when you say that the consumer of that product is concerned with the prestige, the reputation and honesty and integrity of the person with whom she deals. You may say that a diamond or a piece of jewellery is a blind article; it is not. No article is a blind article, I submit, sir. It may be at the moment of purchase, but if your wife has a piece of jewellery, she immediately becomes conscious of all jewellery that all her friends are wearing, jewellery that she sees in other stores, and she compares, and the reputation of the merchant with whom she deals is established to a greater extent after the purchase has been made than at the time of purchase.

This also applies to rugs. No one can tell, no one but an expert can tell the value of a rug, but after you have had it in your home for six months or a year you know whether it wears or not, the same as a suit of clothes. We learn through experience, and our reputation as merchants is established long after. It takes many years to build a reputation for an individual with whom a person who wants to spend $500 or $1,000 will deal.

COMMISSIONER WALLS: Well, on that basis, though, it would seem that the excise tax would not be a great criterion on whether you made a sale or not except for one factor, and that leads me into my next question.

Would you care to tell us what are the normal margins of profit between the manufacturer and wholesaler and the wholesaler and the retailer? The reason I am

asking that is that you must realize that excise tax and sales tax, as it stands at the present, has a tendency to pyramid. In other words, the manufacturer pays that tax. When he sells, he adds a margin of profit on cost, and when the retailer sells he in turn adds to it, so you are, in effect, pyramiding the 10% excise tax. I would be interested to know to what extent it has grown by the time it reaches the consumer.

MR. GERSTEIN: During the war, when we had price control, the average mark-up provided to the retailer was 50% of his selling price, and to the wholesale distributor one-third of his wholesale. This is generally accepted and common practice. I might say, in considering profits, one must also consider turnover.

It is generally known that profits in the food industry, the supermarket, 1% is considered an adequate return on net sale, but they turn over their inventory almost weekly.

With us, sir, the D.B.S. will show the average retail jeweller turns over his inventory less than twice a year. I think of 1,100 retail jewellers in our membership I would say that 80% do between fifty - I shouldn't say do between - do less than maximums of fifty to seventy-five thousand dollars a year at retail, and make a meagre living of five - ten thousand dollars would be substantial.

COMMISSIONER WALLS: That, of course, does not answer my question.

MR. GERSTEIN: The profit on the tax is multiplied by the profit, but is essential because it is all part of the investment in the merchandise.

5 COMMISSIONER WALLS: I am not questioning that. I agree with you wholeheartedly. I just want to have some idea of to what extent that initial 10% has grown in the amount the consumer has to pay. In other words, if there was 300% profit on the product, then that tax has now grown to 30% to the consumer, has it not?

MR. GERSTEIN: Not 30% of the retail.

COMMISSIONER WALLS: Not 30% of the retail, no.

MR. GERSTEIN: If what you are saying is correct, it remains at 10% of the retail.

COMMISSIONER WALLS: No, no. You pay tax of 10% on the manufacturer's price.

MR. GERSTEIN: Yes.

COMMISSIONER WALLS: Then I was right in the first place. If, by the time that reaches the consumer, it has gone up 300%, then, by adding on the tax, the consumer is paying the equivalent of 30%.

THE CHAIRMAN: I think you are not right in saying the consumer is paying the equivalent of 30% of the retail level.

COMMISSIONER WALLS: Not 30% of the retail level; 30% of the initial manufacturer's price. Yes, that is right.

MR. GERSTEIN: The amount of tax is compounded by the profits that are placed on it but which are essential because the original investment is made. If, for example, the retailer buys a hundred-dollar ring from
2 his supplier, and he orders a hundred-dollar ring to sell

6 for $200, if there is 10% excise tax at the manufacturer's level, he gets a ninety-dollar ring - my arithmetic will be out a few cents - he gets a ninety-dollar ring and $10 tax, so he still has a ring that cost $100 but still sells for $200.

THE CHAIRMAN: May I interject at this point and carry on with this line of thought? One industry appearing before us indicated that should the tax be removed from the manufacturer's level to the retail level pyramiding would then disappear and it would cost each retailer approximately $1,200 a year, and that would be the profit that he would give up on the tax. Would the same thing occur to you people?

MR. GERSTEIN: I have not calculated it that way, sir, but if I might comment, we had tax on the retail level originally, and it was removed to the manufacturer's level for one simple reason: the Department of National Revenue found it impossible to police.

We have 1,100 retail members and I can say with some assurance that it made thieves out of 60% because you have them collecting - you take a hundred-dollar sale and you collect tax. These men are earning between $5,000 and $10,000 a year, and they have money in the till that they have to remit.

In many instances these people were never assessed, were never audited from one five-year term to the next. I know in our case, as in the case of most large organizations, we called every year to insist on an audit.

THE CHAIRMAN: Thank you, Mr. Gerstein. Of

7 course, the provinces are now levying such a tax, but that was a little bit beside the point. I was wondering about the effect of pyramiding on the tax because if we think of the consumer, the consumer, as a result of a tax lower down the stream, pays not only tax by the time it gets to him but he also pays profit on the tax.

That has been represented to us in the case of some other industries, and we are, of course, interested if you ---

MR. GERSTEIN: This would not eliminate the discrimination. This would not eliminate discrimination.

THE CHAIRMAN: No, but it makes discrimination as it affects the consumer much more aggravated than if there is no pyramiding. In other words, would the repeal of such taxes remove profits from your industry, because if there is pyramiding you are making profits because of the tax that you would not make without the tax.

MR. GERSTEIN: I do not think it would remove profits because once again we come back to the man who wishes to spend $100. He would get more value in his ring and less tax. We would still sell a hundred-dollar ring.

COMMISSIONER WALLS: On page 4 you state, in dealing with the effect of international payments, that excise tax encourages the purchase of expensive jewellery abroad by Canadians. Your excise tax is 10%, but surely a larger influence on the Canadian abroad, particularly in the United States, is the fact that there is a 30% tariff, and surely a 30% tariff on jewellery would cause

8 them to purchase abroad more than the 10% excise tax which you emphasize in your brief.

MR. GERSTEIN: There was a very substantial robbery in Toronto not too long ago and the insurance adjustors are now attempting to determine where the merchandise was purchased. I simply suggest that the tariff accentuated by the excise tax stimulates private smuggling.

COMMISSIONER WALLS: I am not disagreeing with you on this. You have not mentioned tariffs. Your whole case was that the excise tax was the cause of this.

MR. GERSTEIN: If you would like to remove the tariff as well, sir.

COMMISSIONER WALLS: For instance, a little while ago you were dealing with the clearing of diamonds. Is it not a fact that their entry, irrespective of the fact that it is free entry, they have to be opened and identified as diamonds and a certificate made out?

MR. GERSTEIN: I am sorry, I did not quite follow the question.

COMMISSIONER WALLS: I think that you said, when you were making your opening remarks, that diamonds coming in free can be brought in readily without identification by the customs. Isn't there an entry completed recording free entry of diamonds and the package has to be opened even though they come in free of tariff?

MR. GERSTEIN: Mr. Levenston, would you care to answer that question?

MR. LEVENSTON: That is quite true; they come

9 through on an entry form and they are listed, and they are supposed to be opened by the customs inspectors at the port of entry. In view of the fact that the customs inspectors are not diamond experts, and in view of the fact to my knowledge they do not weigh the parcels, and diamonds have value apart from quality, a value because of weight, there are many loopholes in the entry of diamonds into this country on the part of importers.

Where you have a duty of 10%, as you have going into the United States, there you have appraisers at the port of entry and the diamonds are very carefully examined, and you have experts there who try and appraise the value of the stones so brought in. This does not apply in Canada because the customs, having no customs interest in the import of diamonds, or duty interest, do not take the matter quite so seriously, and to my certain knowledge, one of the ways diamonds are brought into Canada in a manner to evade sales tax and excise duties is by false entries at the port of entry.

In other words, you can send shipments from abroad here. You can say that you have ten two-carat stones in a parcel and you can put a value of $200 a carat on those stones, for argument's sake. There is no one at the port of entry in a position to appraise those stones. Those stones might be $2,000 a carat.

As a diamond importer, one of my great objections to the excise tax is that if you cannot police the tax, don't have it. In my experience over the past 17 years here neither the R.C.M.P. nor the sales and excise tax inspectors can police this tax, and they will admit

10 to you they cannot police it.

COMMISSIONER WALLS: Thank you. On page 6 you point out the additional 10% financing that the manufacturers have to do because he has to pay excise tax. Well then, if the excise tax was combined with the sales tax, that would be preferable to having two separate taxes.

MR. GERSTEIN: I am sorry, are you speaking of provincial sales tax?

COMMISSIONER WALLS: No, I am dealing with federal sales tax. When you, as a manufacturer, pay your federal sales tax, you pay it at time of sale to the wholesaler, do you not?

MR. GERSTEIN: No, sir. One of us is in error. Sales and excise tax of 11% and 10%, a total tax of 21%, is paid at one and the same time.

COMMISSIONER WALLS: You pay within 30 days of sale.

MR. GERSTEIN: By the manufacturer.

COMMISSIONER WALLS: Within 30 days of sale.

MR. GERSTEIN: That is right.

COMMISSIONER WALLS: Then, really, you do not have to do any financing if you have 30 days after sale to pay both.

MR. GERSTEIN: Except to the extent, sir, that the retailer who turns his inventory less than twice in

11 one year carries the sales and excise tax in his inventory and must finance it in the same manner as he financed his inventory.

MR. BELSHAM: Thirty-day terms are not jewellers'
3 terms. We are in a slow turnover business, and therefore terms of operation of wholesaler and manufacturer run up to six and ten months to pay.

COMMISSIONER WALLS: Therefore, then, there would be a decided advantage if the sales tax or the sales tax and excise tax combined was moved forward to either the wholesale or retail level as far as your manufacturers are concerned.

MR. BELSHAM: From a financing point of view only, yes.

COMMISSIONER WALLS: I see. Well now, I would like to turn to page 9 where you show a drop in the silver consumption. Am I right that the largest percentage of Canadian silver consumption falls into silver plate, rather than jewellery, on which you pay no excise tax?

MR. BLISS: That is true; there is no excise tax on silver plate, but there is an excise tax on sterling and sterling represents a large part of the silver consumption. In other words, there is a lot more silver used in sterling silver even though there is not as much sterling silver as plate; there is a lot more silver used, and a very large part of the dollar goes to the difference in value of sterling versus silver plate.

COMMISSIONER WALLS: I think Mrs. Milne had another solution, perhaps, for this drop in silver. Would you care to give that?

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COMMISSIONER MILNE: I was thinking of the popularity within the last few years of purchasing good quality stainless steel.

MR. BLISS: That is true. The stainless steel business has come up terrifically in the overall flatware picture, but the fact is I do not feel that the stainless has made any inroads in the sterling market. It has in cheaper plate, in cheaper silver plate, but I do not think, really, that it has made an inroad into the sterling business.

I think the sterling purchasers, if they bought a second set, where it used to be maybe a cheaper grade of plate, today they would buy stainless, but still the sentiment and so forth, the tradition of bride's silver, remains.

COMMISSIONER MILNE: This would not be a significant factor?

MR. BLISS: Stainless has hurt silver plate but not really has hurt sterling.

COMMISSIONER WALLS: Then, on page 10, you say it is our firm conviction that with lower prices an increase in sales volume will result from removal of excise tax and manufacturers would require more employees and invest more capital and so on.

D/PB/ss

You say that the total capital repair expenditure in the jewellery and silverware industry has also declined in the past ten years. Is this not to some extent an effect you have created yourselves by the increased use of costume jewellery? In other words, is there not a tendency for a lady to buy the very excellent costume jewellery that you turn out that she can change with the various dresses she wears as against the much lesser amount of costume jewellery ten years ago when she had one or two main pieces of jewellery.

MR. GERSTEIN: Mr. Ellis, would you care to speak to that?

MR. ELLIS: No, I don't feel that is correct, Mr. Walls. I feel the market is broader and more costume jewellery is being purchased and produced, much finer articles. If anything, it should revive interest in real jewellery. It is a step from costume jewellery to gold jewellery and diamond jewellery.

COMMISSIONER WALLS: I notice in another part of your brief that you are quite critical over the fact that in better class jewellery, and particularly in diamonds we don't buy in the same relationship per capita to the people in the United States. Now, surely, this isn't excise, but rather the greater ability to buy in the United States.

MR. GERSTEIN: We feel, and there is a very strong belief in our trade that the statistics reflect the smuggling by private individuals. I am constantly amazed, sir, at what I see worn at my golf club, and I am sure my golf club is no different from any other golf

club or any fashionable wedding, the amount of fine jewellery worn by Canadians today as compared to ten years ago is amazing, and we don't know where it is produced.

COMMISSIONER WALLS: The question I want to ask you, dealing with that section of your brief where you point out perhaps as a result of our excise tax the per capita expenditure of Canadians on diamonds and good jewellery is not as high as our counterparts in the United States. I would think perhaps the reason is this: That in the United States there are over half a million, 566,000 people who earn over $25,000.00 a year. In Canada there is 17,000, which is nowhere near the relationship of our population and therefore you have a wealthy class of people who will naturally tend to spend more money on jewellery. I am only trying to point out there are other reasons than excise tax.

MR. ELLIS: Indeed there would be more than one factor involved, sir, in it. Our disposal income increased more percentage-wise in Canada over the period we are using in comparison.

COMMISSIONER WALLS: That might be, but it still has got to expand quite a bit more before we are on the same basis based on the figures I have in front of me. As I say, the relationship would be somewhere in the neighbourhood of about $180,000.00 instead of $566,000.00 to being on the same basis in Canada as in the United States. It isn't an important point. I just wanted to bring out the fact that yours is a prestige product and therefore that, perhaps, the 10% excise tax is not the

reason why we buy less of it than they do in the United States, but rather the fact that they have more wealthy people who are able to buy.

MR. LEVENSTON: May I speak to that, Mr. Chairman?

MR. GERSTEIN: If I may say, one area is a prestige product to the extent that a Cadillac or a Lincoln or a Rolls Royce, which we see on the streets of Toronto today, is prestige, but the wedding ring, the diamond engagement ring at \$100.00, \$150.00, \$200.00 and the wristwatch at \$15.00, \$25.00 or \$30.00 is not a prestige item. It is a necessity today in the way of life which we have developed.

COMMISSIONER WALLS: I agree with all that, but I think the point is in your brief you point out the comparison of spending on expensive jewellery and diamonds.

MR. LEVENSTON: May I speak to that, Mr. Chairman. I think one of the vital points in those comparisons of diamond consumption between the United States and Canada is the fact that the legitimate figures which are, presumably, given by D.B.S. don't include a very large proportion of diamonds which are brought into this country illegally. Our company is a subsidiary of an American corporation. One would say if there is that disparity in diamond consumption between Canada and the United States our company in sales compared to our parent company should do by proportion 5% of the American business. We do much better than 10%. I think if you accept these D.B.S. figures of diamond consumption in Canada, our company, which is one of, perhaps, 150

importers of diamonds in Canada import over 15% of the total imports. This is ridiculous. These figures indicate in my opinion, that there is a tremendous discrepancy between legal imports of diamonds into the country and the illegal imports. There should be no figure like 7,700,000 opposed to 140,000,000. These are fantastic discrepancies. I think these figures we put into the brief primarily to indicate that there is an illegal consumption of diamonds in Canada which is not reflected and the removal of the excise tax would help to remove that illegal consumption.

THE CHAIRMAN: What I observe in these figures primarily is the fact during the ten-year period the Canadian consumption of diamonds has increased 10% and the United States consumption of diamonds has increased 50%. It seems to me this makes the point the figures are wrong or something has happened beyond the normal course of events.

COMMISSIONER WALLS: Has your Jewellery Association any policing force in regard to this smuggling?

MR. BROWN: No, sir.

MR. GERSTEIN: Would you answer that, Mr. Levenston?

MR. LEVENSTON: Mr. Brown has answered. We have no policing force, because we haven't the facilities. It is very difficult, as you uan understand, for the Association to take over the difficult duties of investigating forces. The R.C.M.P. have been trying to work on this for many years. I think because of the fact that you have no proper policing at the port of entry it is

very difficult for them to do much.

COMMISSIONER WALLS: Do you do anything in the way of reporting to customs suspected smuggling? Smuggling appears to me from your presentation to be a very important factor in your industry. To what extent are you encouraging tighter control of customs?

MR. GERSTEIN: This is a matter we have discussed amongst ourselves on many occasions. There have been occasions when complaints have been made, not too often, but nothing comes of it, because diamonds are a commodity, sir, that are very difficult to check. In most instances the R.C.M.P. cannot prove anything that they know is true. We know people, certainly we know people who will not buy merchandise from a supplier with an invoice. We know suppliers who will not sell with an invoice, but we can't prove it, sir, and the R.C.M.P. can't.

COMMISSIONER WALLS: Thank you very much. That is all I have.

COMMISSIONER MILNE: Just one question that occurs to me. I wonder what you do, or if you do anything in this situation. I think it is fairly common, perhaps once or twice a year to suggest to women by advertising that they might have their rings remounted in newer styles. The mounts themselves are advertised or suggested atfairly reduced prices to promote this. Supposing that you take advantage of this, you would like to have one of these new mounts and you take in a loose stone, you don't take your old ring, you take a loose stone. Would there be any inquiry made at that time where the stone came from?

MR. ELLIS: No.

THE CHAIRMAN: I draw your attention to the fact our instructions are to make recommendations with regard to taxation which is going to maintain the flow of revenue to the Federal Government. This would cost, I think, five and a half million dollars. Have you any thoughts as to where that five and a half million dollars should come from? It is true it is small, but we have had several submissions like yours and if you put them all together, they mount up.

MR. GERSTEIN: We sincerely believe the recapture of normal corporate tax would do a great deal to recoup this loss. This would also stimulate the industry as a whole and result in revenue in sales tax.

COMMISSIONER WALLS: Both of which might eventually come out of the consumer.

MR. GERSTEIN: I think it is fair to say, sir, any tax ultimately comes out of the consumer.

THE CHAIRMAN: Or the shareholder or the employee.

MR. GERSTEIN: Who in another capacity is one.

THE CHAIRMAN: A consumer of merchandise. Well, I think you have answered our questions most completely, and your submission took care of the main body of thought. We sincerely appreciate your bringing these matters to our attention. We will continue to consider them. Have you anything else you would like to say to us?

MR. GERSTEIN: I think not. We appreciate your courtesy and the patience with which you have listened to us.

THE CHAIRMAN: We have been very glad to hear

from you. Thank you.

MR. BLISS: There was one point you spoke of. You asked if a report was made on the value of diamonds to the customs at any time when any member suspected maybe they weren't duty paid. I can say this much for the tableware industry, that while we manufacture here, nevertheless there is a duty on our goods, and therefore when we suspect, when we see some imported into the country and they are being sold at ridiculous prices and we suspect that maybe there were false values declared on these goods, we have, as an industry, reported that to Ottawa and worked very closely with Mr. Simms and his associates. The fact there is no duty, of course, they cannot do anything about the diamonds. We certainly do with silverware.

COMMISSIONER WALLS: It would also be easier to identify silverware than to identify diamonds.

MR. BLISS: That is right.

THE CHAIRMAN: Thank you. Is there anything else, Mr. Secretary?

THE SECRETARY: There is nothing else this morning. Tomorrow morning at 9:30 we have the Toronto Estate Planning Council and later the Confectionery Association of Canada.

THE CHAIRMAN: We will stand over until 9:30 tomorrow morning.

---Adjournment.

ROYAL COMMISSION

ON

TAXATION

HEARINGS

HELD AT

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ONT.

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ROYAL COMMISSION ON TAXATION

Hearing held in Howard Ferguson Auditorium, Sir Daniel Wilson Residence of University College, University of Toronto, Toronto, Ontario, on Thursday, the 16th day of May, 1963.

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MR. KENNETH LeM. CARTER - Chairman

MR. J. HARVEY PERRY

MR. A. EMILE BEAUVAIS

MR. DONALD G. GRANT

MRS. S.M. MILNE

MR. CHARLES E.S. WALLS

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MR. G. L. BENNETT

ROYAL COMMISSION ON TAXATION

HEARINGS HELD AT THE CITY OF TORONTO, ONTARIO

May I6, I963

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A/MR/ss

---On commencing at 9:30 a.m.

THE CHAIRMAN: Mr.Secretary, supposing you start the proceedings by introducing our visitors.

THE SECRETARY: Thank you, Mr. Chairman, Commissioners. We have before us this morning a brief from the Estate Planning Council of Toronto. Mr. E.A. Puddy is Chairman and present this morning is Mr. John W. Graham, Q.C., and Mr. D.R. Perry, Secretary of the Special Committee.

I would like to enter the submission into the record as Exhibit No. 66.

---EXHIBIT NO. 66: Submission of the Estate Planning Council of Toronto.

APPEARANCES:

E.A. Puddy, Esq. -- Chairman
John W. Graham, Esq.Q.C.
D.R. Perry

THE CHAIRMAN: Good morning,gentlemen. We are delighted to have you with us today. We have read your submission. It is very interesting, indeed. It is our usual practice to ask people appearing before us if they wish to say a few words, not to read your submission, because we have already read it. It has been entered into the record without reading, and we have prepared a few questions we would like to address to you.

We will hold our questions until after you make any remarks you wish to. Mr. Puddy, are you speaking?

MR. PUDDY: No, Mr. Carter. Mr. Graham will be.

THE CHAIRMAN: Fine. Mr.Graham?

MR. GRAHAM: Mr. Chairman, gentlemen.

THE CHAIRMAN: You may stand or not, as you please.

MR. GRAHAM: Thank you, sir. Members of the Commission, I have no intention of recapitulating what is in the written submission. I would say only that our group, of which I am a member as well as on this occasion counsel, is, I believe, an extremely well-informed group and one who in their daily work are constantly involved in estate planning.

We have not set ourselves up as experts, but have addressed ourselves to a few areas in which we sense disquiet with present tax arrangements, and we feel, for the betterment of our country, there could be changes. You will notice, in particular, with respect to our submission on the Income Tax Act we have only drawn attention to a problem that I am sure has been referred to you by many other persons making representations, namely, the entire question of surpluses, earned, accumulated, designated, and all other kinds which in endeavouring to plan estates cause numerous difficulties and lead, in our experience, to a substantial number of very artificial arrangements.

We question whether such artificiality serves either the fiscus or the taxpayer.

We confined ourselves much more to the Estate Tax Act and we have made certain submissions and recommendations there. I need not, I suggest, enlarge particularly

upon them save perhaps on one point which is point number 4 and that has to do with the interrelationship of the Provinces and the Dominion in the field of death taxes and duties. That is on page 5, Mr. Chairman, and Commissioners. Our submission there is basically this: We feel that it is wasteful. We feel that it renders difficult the evolution of a proper comprehensive plan, if one is endeavouring to plan,with regard to the impact of varying, conflicting statutes which are taxing by levying duty on the same assets, and the suggestion that we advance is that one jurisdiction only, namely, the Central Government should levy taxes upon death.

We are cognizant of the fact that several, if not all three of the Provinces that are still in the field, one of which having recently returned, allege that the reason for their remaining or re-entering the field is the question of the revenue to be derived from succession duties. To us there is nothing sacred in the 50/50 formula that has been developed and we suggest that if Ontario, for purposes of example, desired to receive a larger amount than the amount equal to that which the Dominion would receive, there would be no reason why the estate of an Ontario decedent should not be subject to, let us say, 110 or 120% of the normal tax on the group basis, as you take now under the Income Tax Act.

With respect tothe Provincial taxes there is a saving which is perhaps not apparent if a process of this kind could be adopted,and that is that in every estate returns must be made to both jurisdictions. I am

speaking now, of course, of Quebec, Ontario and British Columbia. This not only involves the estate, the heirs, the family in added delay, but also, and this may sound rather ironic coming from a group whose members include trust officers and solicitors, increases the cost from the standpoint of the executor or administrator, and certainly increases legal costs in the case of every death, because of the necessity of completing and filing two death returns.

There is no way of estimating this, but it must amount to many hundreds of thousands of dollars of money which, in our view, is taken from estates on death and money which should either remain in the estate or, if it is required for revenue purposes, go to the proper ultimate destination.

That is only one immediate source that I feel I should like particularly to comment upon. The others, I trust, are relatively self-evident. It may well be that you have questions, and if so, we shall endeavour to answer them.

THE CHAIRMAN: Thank you, Mr. Graham. Before we address any questions to you, would you tell us a little more about your Council? We see that it consists of some seventy persons. I was curious as to your activities. Presumably you endeavour to raise the skills and training of the people who are estate planners. Am I correct?

MR. GRAHAM: Yes, sir. There are now in a number of cities of Canada groups called estate planning council, sometimes life insurance trust council, varying names of that kind. To my personal knowledge there are

such groups in Montreal, Ottawa, Toronto, Hamilton, London and Sarnia, and there may well be others of which I personally am not aware.

The general setup is that you have life insurance agents, and you will have, depending on the size of the town and the group, not more than one or two men from each company. You will have one or two men from each trust company that is represented in the area plus, in the case of Toronto I believe it is eight chartered accountants and eight solicitors. In smaller places it might be a smaller number. The membership is normally by election and an endeavour is made to have people who are interested in the estate planning field. The general pattern is monthly meetings from September to May or June. I will refer to the Toronto pattern which I know is the same as in most of the other cities. We have a dinner meeting about every four weeks. Have at least one speaker who will speak on some matter considered to be of interest to the group. He may be a representative of one of the Taxing Departments. He may be a member of one of the groups represented. Normally there is also a question period.

I personally have been a member for some five or six years. I have spoken at most of the other groups in Eastern Canada. They are knowledgeable groups and frankly, I think they do a great deal to improve what I would refer to as the expertise of the interchange of knowledge among those engaged in a rather limited, but nevertheless extremely important field of activity.

THE CHAIRMAN: Thank you. In paragraph 2 you

refer to two matters that cause special disquiet, and they seem to us to be important matters, indeed. One is the difficulty of continuing a family or small business or effecting a satisfactory sale. The other one is the increasing tendency of wealthier persons to leave Canada in order to avoid the impact of taxes.

Of course, we would like any evidence there might be as to the seriousness of these two matters. Certainly we have heard it said that these are significant and important. We wondered if there are many small
2 businesses which are being sold as a result of estate taxes or if there are, in fact, many people who are leaving Canada. We know some, or we think we do.

MR. GRAHAM: With respect to the first point, Mr. Chairman, our collective experience is that the sole proprietor, most of whose assets are involved in his own business, be it a retail business, a small manufacturing business, a professional practice, things of that kind, the business may be valued at anything from, let us say, $40,000.00 to $100,000.00 or $150,000.00.

He is faced with several problems in making proper provision for the happenings that will occur on his death. Firstly, the business is probably the sole source of livelihood for he and his family and, therefore, its continuance, if it is possible to do so, is very much in the interest of the family. He is, however, faced with the problem of evaluation as of the date of death which normally means a much higher or better figure than would be the case three to six, or twelve months after death, unless there are immediate and

extremely satisfactory arrangements made to continue the business.

Secondly, the necessity of settling the tax within six months. Your small businessman normally, in our view and experience, is not in a particularly liquid state and, therefore, many have resorted to life insurance, in one form or another in order to impart liquidity into their estate. This, however, is not always possible. If the man is relatively unadvised, he may by the acquisition of life insurance, merely aggravate his problem by adding it right on top. This then leads to our recommendations, because we do feel that this is one very difficult area which we encounter in estate planning. I am speaking largely of the smaller business which probably is not incorporated.

Firstly, we suggest, or reiterate what might now almost be referred to as the old chestnut, namely, an alternate valuation date. We suggest not as lengthy a period as in the United States, but a period of six months with, of course, the proviso that if the asset is sold in that time, the amount realized should be the amount subject to tax, because in this small business or practice which is peculiarly sensitive to the loss of the key man, the value may deteriorate markedly immediately upon his death and the family may never be able to realize anything like the deemed value as of the moment of his death.

Secondly, we suggest that the period for settlement of taxes be extended. We suggest in a rather arbitrary way, but we nevertheless think it not unreasonable

a period of five years subject to the furnishing of security and the payment of interest. In other words, if a man is buying a business, it is extremely unlikely that he will be able to pay 100% cash. He will probably make some payments and then will liquidate the balance of this obligation over a period of some years, with interest. This is very common in the event of death in a partnership, where one partner buys the estate of the other.

If he is not in funds through insurance, or in some other way, he will probably make certain payments and then, out of the contemplated and expected earnings over a period of three, five, ten years will pay the balance, with interest.

In a sense the capital levy, and that is what estate tax is, takes a chunk right out of the asset. We suggest that it would not be unreasonable and, further, would do much to perpetuate small bueinesses in the hands of the family and would avoid bargain basement sales if the pressure of having to settle taxes within six months was removed. We do not suggest for one moment that the amount to be paid should be less, nor that there not be proper interest or proper security to protect the fiscus but we do suggest that the period of six months is much too short and there is such an extremely limited provision in the Estate Tax Act for settlement of taxes over a period; it is rarely applicable, the present section.

Those are our comments with respect to the first point. I don't know, sir, if you would like me to

stop at this point in case there were some questions.

THE CHAIRMAN: No, please go on.

MR. GRAHAM: As to the second point, this is something which is difficult to document and which is difficult to be too specific about. At the same time I think it is fair to say that within our members are a fairly substantial number of men who in their practice are engaged in advising wealthier people, certainly in the Metropolitan Toronto area. Of the 35-odd life insurance men, well over half of them are members of a group of which you may have heard, the Million-Dollar Round Table. In other words, they are very large writers of life insurance.

We had a Special Committee which worked on this brief andamong the members of the Committee alone there was, I believe, six or seven individuals who within the last couple of years, in order to minimize the bite of death, have so arranged their affairs, through liquidation of business, moving to sunnier and more salubrious climes, have withdrawn from exposure to Canadian taxes. Most of them who have done this, and I have had two in my own practice since last Summer, most of them make no bones of the fact that they have, through a lifetime, acquired certain assets; that they have no intention of seeing 30, 40 or 50% of it taken by the Government, as they refer to it, on their death, and they so arrange their affairs as to minimize the bite through either change of domicile, which of course is one of the best recognized means or, alternatively, through a pretty subtantial diversity program or arranging their affairs in

such a manner as to nearly as possible eliminate the taxation bite on their death.

This is something, as I say, Mr. Chairman and Members of the Commission, that I think we could probably prepare a list of eight or ten people by this afternoon of whom members of our Council have knowledge. How widespread it is, we don't know.

B/ET/dpw We sense in our work that this is a growing development, and so long as certain of what we regard as inequities in our tax systems are perpetuated, this will probably accelerate and not slow down.

THE CHAIRMAN: What have you recommended which would take care of this situation?

MR. GRAHAM: Our feeling there, sir, is in with certain other of our recommendations on page 4 of our brief, the second of our recommendations, but we recognize that there is going to be an estate tax. There is going to be death taxes or duties in the 1960's. One would be ostrich-like to think otherwise.

At the same time, we have endeavoured to point out the relatively small contribution that this tax makes to the Exchequer, and the altogether disproportionate number of taxable estates under $100,000 that contribute a very, very small amount. We suggest that the ceiling be reduced. At the present time it is 54% in Canada on the very large estates. That, having regard to the necessity of settling taxes so quickly, in our view can be confiscatory. We would like to see a lower figure, but we feel realistically, the very top rate should not exceed 30%.

There is one other of our recommendations which in a sense ties to this, and that is the third one. This raises the whole question of the Canadian selling his equity to a non-resident. We get here into the realm of the political and the overall philosophy that should be behind a taxing statute.

At the present time, as the Commission is well aware, the rate of tax in the case of non-domiciliary is

only 15%. Therefore, there can be an extremely substantial saving if Canadian assets are placed in the hands of non-domiciliaries. This is related, of course, to those living in Canada, and it is related to those selling their interests. It has become very attractive for a non-resident to purchase Canadian equities. This, I think, needs no proof. It is well-known in many of our basic industries that a large percentage of the equity ownership is in foreign hands. We therefore suggest, as a matter of fiscal policy, that serious consideration be given to two rates of tax with respect to assets of non-residents, non-domiciliaries, I should say, with a higher rate of tax on equity ownership.

We are conscious of the fact that this could by some be deemed to be in bad faith, that people had acquired assets here in the light of a certain set of circumstances. However, taxes, though they always go on, are by no means immutable and we therefore feel there should be a measure of encouragement for Canadians and discouragement towards non-domiciliary ownership.

THE CHAIRMAN: Thank you.

COMMISSIONER GRANT: On this point, Mr. Graham, I was wondering if a higher tax than is now imposed on a foreign owner of Canadian equities were established, if it might have any direct bearing on the question of that man leaving Canada to establish another domicile. He might conclude that "If the tax is as high as it is, I

3 might just as well remain in Canada."

MR. GRAHAM: Mr. Commissioner, we agree entirely, and that is intended to be implicit as part of the reasoning behind it.

COMMISSIONER GRANT: Now, in your table on page 3, you show that at the present time estates to the value of $50,000 to $99,000 contribute only 7.7% of the total take; then you recommend that the exemption be extended to $100,000.

Have you attempted to re-establish a table to show what the total take would be if the exemption were extended to $100,000, because I am assuming that you are thinking along the line that the present revenue is to be maintained after the loss of the $6,440,000.

MR. GRAHAM: Mr. Chairman and Mr. Commissioner, we were not necessarily committed in our thinking to the complete maintenance of the revenue in that figure. At the same time, we recognize that this is a not insignificant amount of money even though it is a relatively small percentage of the overall taxation income.

We had a little difficulty, I must say, sir. The tax is, in fact, levied on the aggregate taxable value. There is an exemption for the first $50,000 of aggregate net
2 value. The statistics which we submit from the tables furnished by the Canadian Taxation Statistics - that would be governmental figures - refer to net value of estate. These three are all interrelated, and our thinking basically, therefore, was that if, instead of the figure of $50,000 of absolute exemption, that was raised to $100,000, it would tie in with the table which

we have produced.

There would, therefore, appear to be a loss of some six-and-a-half million dollars. I cannot say what adjustment in rate would be required to make that up, but we do point out that if, on the administrative side, some 56% of the work is eliminated, there should be some saving. Further, if there is only one group involved in valuation and collection and assessment, there should be some saving.

Now, we do not have the facilities to equate these savings with the seeming loss of revenue of some six-and-a-half million dollars. However, we did feel that the amount could be readjusted without very much difficulty because unquestionably there will be savings.

COMMISSIONER GRANT: What concerns me in your recommendation is that the ceiling rate be not more than 30% of the present total revenue of $82,900,000 that comes from estate tax. You are going to immediately take off $6,440,000, and then you are going to establish a new set of rates, progressive rates, so as not to exceed 30% of the aggregate taxable value of the estate. That would call for a re-arrangement of the present schedule of rates if the revenue was going to be maintained.

MR. GRAHAM: May I say, Mr. Commissioner, I appreciate your point. I agree with it completely. It was, however, beyond our capacity with the statistics available to us to re-develop rates because unquestionably it would require a higher starting rate than the present starting rate which is only 10%. It might well be that

with appropriate notch provisions, the starting rate should be 15% or 20%. We are assuming the need for revenue is there, as I think we must. We were not suggesting a decrease in the total receipts of the Exchequer, but a re-arrangement of the schedule so as to provide broadly the same result, because unquestionably there would be a decrease in the revenue derived from the largest estates because at the present time the effective rate for estates in excess of one million dollars is some 52%. Therefore, it would undoubtedly require raising of the rate in the intermediate figures.

COMMISSIONER GRANT: And the intermediate figures. The lower value estates are going to get off much better than they are now, so also are the higher value estates, but the estates in the middle, if the revenue is to be maintained are going to have to go up.

MR. GRAHAM: That would be correct. We do, however, have a question as to whether a capital levy of some $83,000,000 a year is a good thing. We felt socially that it would be impossible to advocate elimination of tax on death in the light of the political situation, and I mean that with a small 'p', in the country today.

At the same time we endeavour to point out that this tax is unique among all taxes in that it is not based upon capacity to pay; it is not based upon earnings; it is not based upon price or cost or anything else. It is a pure, simple capital levy, and this is, of course, responsible for many of the problems that flow.

In the overall concept, we would hope and we

6 speak, of course, from our own particular standpoint, that the capital levy might be in result a smaller amount than it presently is because of the problems that we see that occur in our practice. If that is not the answer to the problem, then obviously the only answer is that the intermediate rates would have to be somewhat increased, but we are very conscious of the fact that it is a capital levy and not based in any other way.

COMMISSIONER GRANT: And deciding on any changes in the rates, this Commission may very well be faced with the fact that the Federal Government, now that they have lost 50%, let us say, of the revenue from a third province, may very well reach the stage where they say it is not worth it. Certainly, if very many more provinces come in and assert their right to take inheritance taxes and whittle the take of the Federal Government down farther and farther, that desirable situation which you point out where you have one taxing authority with which to deal is going to be lost beyond recall.

MR. GRAHAM: Mr. Commissioner, this horrible prospect has also occurred to us. We hope that this Commission is sitting at a timely period, and that this tendency should be asserted and reversed before it does go beyond recall because if ever we get back to the chaotic days of the 1930's, and I suppose the only consolation was that the estates were a great deal smaller and therefore there were not so many problems, where the type of security that a man owns has to be investigated to see in what jurisdiction it is deemed to be sited for tax or duty purposes, if we get back to that I think it would be a tragic

7 retrograde step in Canada.

I think our present concept of the one tax is a unifying one and one which places all Canadians - speaking broadly, regardless of where they live - on the same basis; the Federal Government deals equably with all.

We, therefore, suggest that if any province, as they have in the case of income tax, wishes to receive a larger amount of money, that is the responsibility of that province, and you do at least have some recognition of the fact that the body that taxes has to disclose its hand and suffer whatever public reaction or pressure that there may be.

However, we would be most concerned if the present unfortunate tendency continued, and if it were not reversed, and that is why we felt - and I may say parenthetically that another group for which I act made representations to the Provincial Treasurer of Ontario with respect to this larger percentage, and we were not rebuffed. I cannot say more than that. If something like that could be evolved, we think it would be a tremendous thing in the interest of all Canadians.

COMMISSIONER GRANT: Do I understand you to say that representations have been made to Ontario along the lines that you are suggesting in your brief?

MR. GRAHAM: As a single collection, single assessment, single valuation, with Ontario taking whatever - as opposed to the 50-50 basis, 65 or 70, whatever Ontario felt they needed. Speaking rather broadly, they would need to get something between 65 and 70 per cent so as not to suffer a loss in revenue. If that was on a 50-50 basis they would suffer a loss in revenue.

8 COMMISSIONER GRANT: May I ask: was it by way of a formal presentation to a responsible body or has it been merely the basis of casual discussion?

MR. GRAHAM: It was part of the representation from a very responsible body, sir.

THE CHAIRMAN: To the Provincial Treasurer, I think you said?

MR. GRAHAM: Yes. However, I do not want anyone to take the fact that he is committed in any way.

COMMISSIONER PERRY: We know Provincial Treasurers never rebuff any taxpayer.

MR. GRAHAM: I bow to the Commissioner's experience.

3 COMMISSIONER GRANT: I think that what I was leading up to is that very thing, that representations could properly be made to provincial authorities along the lines that you were suggesting in the brief and on the percentage of take which you have enlarged upon in the brief. Time would seem to be of the essence.

MR. GRAHAM: I agree. I should also say - once again parenthetically - that as I believe the Commission may be aware, there has been a Royal Commission entitled a Committee appointed in the Province of Ontario, and among the representations to be made to it will be a similar representation.

THE CHAIRMAN: I was just about to suggest that would be a most useful thing for you to do. If there was any relationship between your local organizations, I would hope that similar representations may be made in other provinces, too. This is something which is not likely,

I do not think, to succeed rapidly unless it comes from within the provinces.

MR. GRAHAM: Yes. It is not the Estate Planning Council of Toronto which has made these representations, but it is a very responsible body in this area with which I am quite intimately connected. They will be making representations to the Smith Committee on this point and may well enlist the support of other provinces or endeavour to do so.

COMMISSIONER BEAUVAIS: There is also a Royal Commission on Taxation appointed in Quebec.

MR. GRAHAM: Yes.

COMMISSIONER BEAUVAIS: But on this point, Mr. Graham, you say: "In each case it is alleged that the loss of revenue under the existing Tax Agreements is the reason for this duplication."

MR. GRAHAM: Mr. Commissioner, I may say initially that that may be an over-simplification of the reason, and it may be that there would be other reasons more impelling which have encouraged the Province of Quebec to decline to enter into this aspect of tax-sharing.

C/pb/dpw

Certainly Ontario and British Columbia always say that this is revenue. They haven't emphasized to the same extent as have the provincial authorities of Quebec the constitutional aspect of this point.

COMMISSIONER BEAUVAIS: Exactly, because in Quebec I think the revenue is no more than $20,000,000 per annum on a budget of $1 billion. Is it not a fact that Quebec has levied succession duties since before the year 1900 and except for a few years during the war it has always levied this tax. It seems to me that Quebec regards this as an historical right, something it acquired years ago.

MR. GRAHAM: Mr. Commissioner, I am not sure of the date of the institution of succession duties. In Ontario it was 1892 and I presume Quebec was about the same time. The recently retired Controller of Revenue of the Province of Ontario never ceased to say that Ontario had been in the field for 70 years and the Dominion had only been in the field for 20 years so why was the Dominion thinking the provinces should get out of the field?

We, on the other hand, speak from the standpoint of the taxpayers and those who endeavour to counsel and advise the taxpayers. Our very strong submission is that it is a wasteful development. It causes unnecessary difficulty and we should, in this Canada of ours, be able to evolve a comprehensive, inherent taxation system which would, on the one hand, extract the maximum dollar from the taxpayer who, ultimately, is the same person and, on the other hand, do it with the least possible expense and confusion and interruption of his ordinary conduct of his

2 business. It is from that standpoint exclusively, leaving aside historical, constitutional, provincial rights, that we make our submission. It does cause delay; it does cause expense; it does cause confusion.

Our submission is that per se it is wasteful and that it should be corrected.

COMMISSIONER GRANT: Just one more question, Mr. Graham, and that is with respect to your recommendation that there should be a longer period allowed in which to pay the tax. When the present state of affairs was brought to the attention of the Department they stated that there is a provision in the Act now for deferment of time for payment and it is Section 16. Have you had any occasion in your practice or in your experience when you asked for deferment under Section 16?

MR. GRAHAM: The simple answer, Mr. Chairman, is no. I must say, though, as a solicitor I object strenuously to discretions being embodied in the law in this way in substitution for a general rule of reasonable application. I don't suggest that there should not, in cases of undue hardship, be power under this statute or under the Financial Administration Act or other appropriate statute to make arrangements, but this gives the taxpayer no solution whatsoever and I have never heard of a case where resort has been taken to Section 16.

I am not saying there hasn't been such, but I haven't heard of any. Mr. Puddy, who is our Chairman, and actively involved in this, says he has never heard of one either.

COMMISSIONER MILNE: I have one question to

3 address to you and it is in connection with this payment of tax. You mentioned, in your first point, the small sole proprietor with possibly a volume of business in the area of $40,000 to $150,000, and say, that particular person is an unincorporated business, as such, in respect to exemptions of assets above the $100,000 level would there be the same urgency for liberalization of the time of payment?

MR. GRAHAM: In my view, madam, yes. If the rate of interest to be charged was the same, for example, as is charged with respect to income tax, namely, 6%, although some will say that is relatively cheap financing at the expense of government, I think most people will endeavour to avoid an interest charge of that measure if they possibly can. Therefore, I think there is pressure to settle now if you possibly can.

In my view, and in my experience, it is not a matter of the size of the estate but as to whether there is a difficulty in meeting tax within six months. I spoke earlier of the intense problem of the smaller family business where it probably has to be disposed of and cannot be mortgaged or other long-term financing arranged with as much facility as there could be with the larger estates.

Certainly, there are many men who don't recognize either the size of the tax or the necessity for settlement within six months and this does result in all too many cases in forced sales, accepting a lesser amount than true value and consequent suffering for no point, no real gain at all on the part of the family.

COMMISSIONER PERRY: Mr. Graham, I would to ask

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you a very leading question.

MR. GRAHAM: You are in character, Mr. Perry.

COMMISSIONER PERRY: We know very well that the Estate Tax Act as it now stands is a revision of a statute of some horrendous proportions that was cooked up during the war. I think it is agreed that it is a vastly improved piece of legislation. The leading question is this: would you agree that the general areas of complaint within the present Act are on the level of exemptions, on the point of alternate value duty, and on the period of payment for tax, the latter being probably the most acute in the case of a pension? I am not asking you to agree with this if you have any other point to bring forward, but just for our general guidance, would you say these are the main points?

MR. GRAHAM: Mr. Commissioner, very definitely, yes. Those are three of our submissions, of our six submissions, and we feel they are the three principal points. I should say I am sure every one of our members feels that the Estate Tax Act is a very workable piece of legislation, broadly speaking. It was given a very fair investigation before it was enacted by the members of interested groups, but there are these three principal points with possibly one subsidiary area to which we referred, namely, taxation of non-domiciliaries.

Certainly, as far as Canadian domiciles are concerned, these are the three.

COMMISSIONER PERRY: Thank you. Just going through your main items again, you almost anticipated one question I had in answering Mrs. Milne and that is on the

possibility of a small business using its credit standing to meet liabilities for estate tax. It must be recognized that estate tax is only one of what, in most businesses, would be a series of substantial capital indents during the lifetime of the business. It does have peculiar aspects, certainly.

Normally, these heavy indents are met by borrowing. Why wouldn't a business with good credit standing meet a liability of this kind in the way it would with any other heavy capital liability during its lifetime? You have anticipated that in one sense by saying these businesses can't be mortgaged, but one wonders whether if they are in a state where they cannot be mortgaged whether they are really worth saving.

Is it that they are in such an illiquid position there is no way of squeezing a drop out of them at all? Is this the sort of situation we are facing here?

MR. GRAHAM: The problem, Mr. Commissioner, as we see it, is this: your typical retailer, service station operator, garage operator, plows most of his excess earnings beyond what he needs to support himself and his family back into the business, and the business, as long as he is there, will continue to prosper; one may assume it will continue to prosper and continue to operate. He may well be able to establish credit with his bank, but when you remove the key man from a small business, a largely one-man or family business, the credit facilities are undoubtedly less available.

The larger business with fixed assets, with corporate form, with a breadth of management, has much

6 more depth, and in my experience commends itself much more to bankers and professional lenders. Let us say there is a corner grocery store, and I am not trying to make any melodramatic plea, I don't mean that at all - but a relatively small business, and the man dies and the family may well be able to carry on that business, but they won't have the means to pay X thousand dollars, for the privilege of carrying it on, in cash, although they could pay it off over a period of time.

This is not limited, and I wouldn't want to leave the impression in my view it is limited only to small businesses, because there are men engaged in - who I might call entrepreneurs, who have very substantial estates, but whose assets are so tied up, if you suddenly endeavour to extract a large amount of cash the whole thing collapses even though they are fundamentally completely sound. It was this type of thing we had in mind in suggesting the time payment.

COMMISSIONER PERRY: There is a little subtlety that escapes me. I don't dispute your point at all. I wonder if the business is in a condition that the heirs can continue to operate presumably as successfully, or nearly as successfully as the decedent, why they wouldn't have the credit to borrow.

MR. GRAHAM: I have never been a banker.

COMMISSIONER PERRY: I am trying to suggest we should, perhaps, have some bankers on the Estate Planning Council group.

MR. GRAHAM: We have the Royal Commission. My experience...

COMMISSIONER PERRY: It is your experience that I would like. If you say in practice that is not the way it works I am quite happy.

MR. GRAHAM: I am saying in practice it is the worst time to borrow, the worst time to re-arrange credit. The business is in a flux. The banker probably has some insurance policies assigned. He breathes a sigh of relief that he has this loan cleared. He is going to look very closely and wait several months and see what sort of direction it takes and how the new management faces up before he is willing to commit himself. This is the practice, in my experience.

COMMISSIONER GRANT: If I may re-enter this discussion at this point, I understand, Mr. Graham, that your plea is merely that the estate be extended a longer period to meet the tax. It is not that you are asking for an alleviation of the tax.

MR. GRAHAM: Not in this connection.

COMMISSIONER GRANT: That you be given a longer period to meet it. Mr. Graham, some of these hardships could be avoided if the owner has sought and obtained the proper advice. I refer to the fact the Estate Tax Act now permits a wife, for instance, to insure the life of her husband and that he may allow her the amount of premiums to the extent that the gift tax provisions in the Income Tax Act will permit and on his death that becomes not an asset of his estate. The proceeds are paid to his wife, and as such can be made available by her to the estate by way of: (a) loan without interest; (b) loan with interest, or (c) funds with which she can buy assets of the estate

and hence put the estate in possession of business with cash.

MR. GRAHAM: Mr. Chairman, Commissioner Grant, I agree basically with what you have said, sir. I would point out, however, that the type of third party ownership of life insurance is not available to inhabitants of the Province of Quebec on the basis you suggest. In the Province of Ontario it requires rather skilled advice to make sure you don't run afoul of the Ontario Succession Duty Act. We, of course, hope all those with problems will come to us and gain by our experience and counsel and we, in turn, can gain from their coming.

Our point, basically, here is a longer period, the giving of completely proper and adequate security by mortgage debenture, a charge to them as proper in the circumstances, and the payment of the interest in the meantime.

Those who are well-advised rarely encounter, their estates rarely encounter, the type of problem that we refer to. Sometimes they do. Unfortunately, not everyone takes advice of professionals. Not infrequently a man is not conscious of the magnitude of the problem that is going to face his estate. In my practice, when you try to develop an inventory of a man's assets, he is surprised to discover he is worth $300,000. He was still thinking he was worth $90,000 or $100,000. There are men who are so involved in their business from day to day, they don't sit back and take a look at the broader picture.

Therefore, our plea here is only that, with no minimizing of the revenue, the national revenue, and with proper security, that there be a more extended period

9 granted for the settlement of tax liability.

COMMISSIONER PERRY: I wonder if we can go on to the business of wealthy people leaving Canada. Can you tell us what the effect of this generally is in terms of the form of their assets? You said you find that they are liquidating their estates on leaving Canada. What does this mean? Does this mean that a man who has a large shareholding in a firm sells his shares, turns them into cash, and moves the cash to Bermuda or Nassau?

What I am really getting at, and it is really another aspect of this problem of liquidity, what is the effect, generally, on the form of his property in leaving Canada?

MR. GRAHAM: In my experience, Mr. Chairman, the type of change that a man will develop is probably a disposition of his equity holdings either to a domestic or foreign purchaser; again depending on the size. If there is a large amount involved it will probably be a foreign purchaser, and the taking back of some type of fixed income producing asset.

He may, of course, do it by means of gifting from the point of view of trust, if he is in a position to do so.

MR/ss

The problem that faces many men, and even in absolute numbers it is a fairly substantial number, is that they are 60, 65, 70 years of age. The market value of their business, which is still largely in their own hands, is well up in the hundreds of thousands of dollars, yet it is not easy to find, in Canada, a purchaser for that type of business which is larger than a one-man business.

Equity capital seems to be more readily available from extra Canadian sources than from Canadian sources. I am sure that this Commission will have had representations as to the ways in which most people feel that may be changed, and he therefore liquidates by either selling for cash, taking back securities in that corporation, or in another corporation. Some of it may be on a time-payment basis to him.

He completes the circle by deciding that he is going to live in Nassau, the Barbados or some other jurisdiction where there will be infinitely less of what he considers to be his money taken on his death.

There is no single answer as I am sure the Commission is aware. There are as many different answers as the ingenuity of man and man's advisors can develop.

COMMISSIONER PERRY: I was just trying to see what the economic implications of this sort of thing might be. If these people were breaking up large holdings of stocks and throwing them on to the Canadian market for broader dispersion, perhaps this might be a good thing.

This might be a good thing to have them, in a sense indirectly, accomplishing what was intended by the

Estate Tax, that is, to prevent the concentrations of holdings of wealth. One would regret seeing them leave the country, but in the broader aspects this probably is not very disastrous.

MR. GRAHAM: We have noticed, and this was discussed by a substantial number of our members, we have noticed an increasing tendency, I don't want to put it too much higher than that --- among our own Committee we have personal experience of this increasing tendency over the last two or three years. People have beoome conscious of the fact that if you are a non-domicilary you can reduce the tax bite very substantially. And thishas come through to the consciousness of the public.

COMMISSIONER PERRY: There is another point I have. I suppose it arises out of the subject we have just been discussing. The sale quite often is to a non-resident person. Generally in any other context people deplore the emphasis on foreign ownership in the form of fixed securities and they would far rather have them having an equity position, because this represents a liability which must be met only when there is a profit earned, whereas, fixed security is something that has to be met in any other condition.

Your suggestion would go directly contrary to that. This is sort of a basic belief among economists, particularly. Do you have any comments to make on that?

MR. GRAHAM: My comment must, I think in substantial measure,be personal. I quite agree that there is a seeming conflict. Canadians and Canadian corporate

investors have traditionally favoured a fixed income type of security. Our Canadian life insurance companies, for example, do not invest more than about one-third of the permitted amount under the applicable law in equities.

Canadians with a fling in penny stocks, though they do enjoy the up and down with the state of the market have not, for a variety of reasons, all of which are beyond me, indulged as heavily in equity ownership as have people of wealth in other countries and we have consequently seen in many cases the ultimate ownership in foreign hands, where we sit back comfortably with our 5% or 6%, or whatever it was. This is very pleasant, but somewhat unimaginative, and our experience is that the business that is sold is rarely sold by means of a going public, if I may put it that way, a public issue with wide distribution.

There is money available, there is international money available in practically unlimited amounts to purchase control of reasonably prosperous or very prosperous Canadian businesses and this is very enticing to a man who is getting on in years and is faced with a substantial tax problem and who says, well, how can I even arrange to leave it to my sons? This is an attractive package, if I can describe it that way, for a single investor possibly in the same general line of endeavour and the Canadian, in our experience, all too frequently ends up with the fixed income security with the ultimate ownership, control and direction being in non-Canadian hands.

I quite agree that it is a wonderful thing to

have foreign risk capital. This is one of the paradoxes with which, Mr.Chairman, and Commissioners, you are undoubtedly faced as to the appropriate tax policy and philosophy which will encourage investment in Canada and will preserve control and direction of Canadian business, as largely as possible, in Canadian hands.

I have no simple answer.

COMMISSIONER PERRY: I just have on more question. I would ask you to stand on your head for a minute and try and see what the position would be in the case of these businesses if there were no estate tax at all and these non-residents came in with these enticing offers. I secretly have a suspicion that they would be just as enticing to the owners of these businesses.

MR. GRAHAM: Well, standing as I am on my head, I can only say that the development of large family businesses in Canada largely preceded the time when death taxes were significant.

Now, unquestionably there is an interrelationship on the income tax here. People have only become conscious of death taxes, I suppose one could say, in the last 35 years because there were some whose estates were so mangled in 1929, 1931, '32, because of the valuation on date of death, that that stayed in the mind of those who were concerned for many, many years, but I think it is only really in the relatively recent years that the general public has become conscious of death taxes. I couldn't say what the result would be if there were no death taxes. As long as we do not have a capital gains tax, I would think it would encourage the retention of

ownership in Canada.

COMMISSIONER PERRY: On the optional foreign duty, Mr. Graham, are you very familiar at this point with the details of the American provision and I ask this simply because it has gone from my head entirely. I was familiar with it at one time.

One point that I wondered about, for example, is whether you are permitted to take an option on individual assets in the estate, or whether it has to apply to the whole, and if you are not prepared to answer, please say so. I realize that you probably did not come prepared to deal with this in detail.

MR. GRAHAM: It is my understanding, and I do not want to put it any higher than that, it is all or nothing, in most of the jurisdictions in the United States.

COMMISSIONER GRANT: I have this observation to make, Mr. Graham: You are not the only person that has brought to the attention of the Commission the fact that Canadian small businesses are family businesses and are being sold to foreign ownership, but just from a superficial knowledge, which I myself would have, it seems to me that quite a number of small business and family businesses in Canada have placed their shares on the market, made them available to investors, one principal reason being to establish a valuation for those shares, a market value, a day to day value, rather than to have value set by the Succession Duty or Estate Tax Authorities and the majority of those shares are held in Canada, but of course available to any foreign investors.

That is a different thing entirely from an outright sale of the business to a foreign owner. For the Commission to take cognizance of that statement, which emphasis is being given to not only by this body, but by others, it would probably seem to the Members of the Commission generally that we would certainly have to have some specific information on that. If there is anything of that sort available through your organization which could be made available to the Commission, I am sure the Commission would welcome that information.

MR. GRAHAM: Mr. Chairman, may I say that if that could be left to me, perhaps be discussed with the
2 counsel of the Commission, because the information which comes to us, of course, comes to us in our professional capacities and there would be a matter of revealing things that came to us in that way. At the same time, I think it might be possible to develop something with Mr. Stewart which would be of assistance to the Commission and yet not violate any confidence.

THE CHAIRMAN: Thank you very much, Mr. Graham. That is a generous offer. We accept it.

There is one matter which I would like to raise. I was interested in the point you made: You considered it to be unrealistic for the repeal of all inheritance taxes and succession duties. I have seen a proposal that in fact these be repealed, saying that the low yield is not worth the trouble, difficulty and the ill-effect to which you referred.

Perhaps you had in mind that it was not really within our terms of reference to recommend such an

abolition without finding another source of revenue. Perhaps in fact you had in mind the thought that comes to me. We have had it suggested to us several times that Canada should impose what might be called a capital gains tax. I do not suggest that a capital gains tax is an alternative kind of tax. In fact, we might have both or we might have neither. If one were to choose the priority as between inheritance taxes and capital gains tax, it might be an interesting exercise. Would that thought in any way influence you in saying that you do not come forward to recommend the repeal of this kind of taxation?

MR. GRAHAM: Mr. Chairman, the answer to that is no. We did not contemplate, nor did we address ourselves to the question of a capital gains tax. I think it fair to say that the reason for our comment was twofold: Firstly, there are many who feel that the Department of National Revenue Taxation Division would be extremely reluctant to see the abolition of some taxes on death as a follow-up to income tax enforcement.

I must say I have a good deal of sympathy for the Department's position in this. It provides an element of policing for tax evasion or avoidance.

The second thing is that we did not sense, and in this we may be wrong, that the political climate in Canada today would enable any Government to remove "taxes on the rich".

We just did not think, in our judgment, that this was politically feasible. There are many problems that arise. Mr. Perry and others have suggested that many

problems would be resolved if the tax were removed. Frankly, I do feel that the Exchequer need not suffer one penny of loss by rearranging of taxes. It does become almost a battle-cry in certain areas that this is a tax against the rich and, therefore, I do not think any Government in Canada would ever have the political courage to remove it.

THE CHAIRMAN: Thank you very much indeed, gentlemen, for this extremely interesting presentation you made to us today. We will continue to consider what you have put before us and indeed, should you have any more thoughts on the subject and you would care to write to us, or address yourself to our staff or our legal advisor, we would be very glad to receive it.

MR. GRAHAM: Thank you, Mr. Chairman.

THE CHAIRMAN: In the meantime, we are extremely grateful. Thank you very much indeed. We will stand over for ten minutes.

---Short recess.

/ET/dpw

THE CHAIRMAN: Mr. Secretary, I think we are all ready. Would you introduce our visitors to us?

THE SECRETARY: Mr. Chairman, we have now the brief from the Confectionery Association of Canada. Mr. C.A.L. Sullivan is General Manager of the Association. He is here this morning, and with him is Mr. Gordon Davison, who is Vice-President of William Nielson Limited and a member of the Executive Committee of the Association.

I would like to enter the brief of this Association into the record as Exhibit No. 67.

--- EXHIBIT NO. 67: Submission of the Confectionery Association of Canada.

SUBMISSION OF THE CONFECTIONERY ASSOCIATION OF CANADA

Appearances: Mr. C.A.L. Sullivan
Mr. Gordon Davison

THE CHAIRMAN: Thank you, Mr. Secretary. There is a supplement to the brief. Is that included in Exhibit 67?

THE SECRETARY: This is included, sir.

THE CHAIRMAN: Good morning, Mr. Sullivan, Mr. Davison. Usually our participants remain seated. You can do either as you please. We have all read your submission and there is no need to repeat that. We would be very glad to have you speak to it if you wish to do so. We have a few questions to address to you which will come up afterwards. If you gentlemen would care to speak to what you put before us, we would be very glad to hear you now.

MR. SULLIVAN: Mr. Chairman, actually our main

points are contained in the brief and there is very little elaboration, I think, necessary. We do wish, however, to emphasize that while our brief does set forth figures which would indicate that the tariff surcharge was very good to our industry, we do not wish to ask for any tariff protection. This is not part of our brief at all. We feel, in the overall good of the economy of Canada, such protection is not advisable.

Our main brief is for the elimination of sales tax from our product and the reasons are set forth in the brief.

THE CHAIRMAN: Thank you. It is quite significant the extent to which imports have declined in the current year. That is due to surcharges, as you say. Are there any other reasons?

MR. SULLIVAN: Well, the dollar devaluation would be another factor, and there has been increased advertising by our own industry in Canada, which, in turn, has promoted the consumption of domestic confectionery. There are other factors in it, too, but the dollar devaluation and the surcharge would seem to be the major factors.

THE CHAIRMAN: Your own sales have gone up more than the decline in imports, I assume?

MR. SULLIVAN: That would be approximately correct, sir, yes. In fact, the per capita consumption overall of confectionery is increased fractionally.

THE CHAIRMAN: You say is increased?

MR. SULLIVAN: Has increased fractionally. From 14.42 to approximately 14.47. That is the overall consumption of confectionery, both domestic and imported.

THE CHAIRMAN: Is it not 11.98 to 13.15?

MR. SULLIVAN: That is of Canadian production, sir.

COMMISSIONER WALLS: I have one or two questions, Mr. Sullivan. I notice in your brief you do not propose the continuation of sales tax as part of any new tax structure, but rather you emphasize your own products should be added to the already large amount of exemptions there is to this tax; exemptions which would probably add about another 40% to the total tax take.

Now, do you not agree that if commodity taxes are to continue to be part of any new tax structure, that the move should be to less exemptions rather than to increasing the number of exemptions?

MR. SULLIVAN: Well, I emphasized, I believe, Mr. Commissioner, in the brief, what we are looking for is equality with other food products. We consider our product to be a food product. If the majority of the food products with which we have to compete are sales tax exempt, and if we have built into our costing structure sales tax, we feel this is not equitable.

COMMISSIONER WALLS: I notice that you deal with this subject of equity, and there, of course, is where we enter into the fact of exactly where candy should be placed in such a classification. It might be questioned as to whether you should not be classified in some group, whatever the name might be, along with soft drinks, for instance, who have to pay a sales tax.

MR. SULLIVAN: Well, I am not carrying any brief in favour of or against carbonated beverages. However,

confectionery consists of very highly nutritious foods. It is composed of highly nutritious foods. Some ingredients that make up a chocolate bar, if baked, for example, or if frozen, are sales tax exempt, but if put through another process and the result is candy, they are subject to sales tax. This seems unusual.

COMMISSIONER WALLS: Are not many of your products the same type of product that go into soft drinks? I have no brief for soft drinks, particularly, but it is so hard to draw a line of demarcation.

Another argument which you use is the fact that the products that are part of your candy are themselves tax exempt. Of course, that applies to every taxpaying product.

MR. SULLIVAN: That is true.

COMMISSIONER WALLS: The end product pays the tax but the intermediate ones do not. I think what you intend to bring out is that your basic products, when sold by themselves, are tax free. We have exactly the same situation with the barley and hops in beer and rye in whisky and sugar and yeast and all of those things that are used in soft drinks and other forms of drinks, so actually the fact that the components are tax free is really no argument from an equity standpoint, is it?

MR. SULLIVAN: Well, I would suggest, Mr. Commissioner, that we are looking, perhaps, at carbonated beverages as food. I believe you are looking at it in the same category as you would class confectionery, and to this I take exception.

COMMISSIONER WALLS: No, I am trying to ascertain where the Commission can find this line of demarcation.

There might be some people who would object to candy being considered as food. I notice in one of your other arguments you state if this sales tax was removed it would result in increased use of dairy products and other agricultural products. However, is it not a fact the more candy you eat the less you are going to eat of those basic products in their natural form?

MR. SULLIVAN: This is debatable because we would compete with other impulse items. We consider the purchase of confectionery to be an impulse purchase. I do not believe that the average purchase of dairy products, as such, is impulse. They are basic necessities in the same way as bread or some other such commodity, potatoes, vegetables, et cetera.

However, we would be in a better position to deal with potato chips - to use that as an example.

THE CHAIRMAN: Speaking for a moment to competitive products, you point out that you would be competing with other impulse products. I think I get the meaning of the term. Would not tobacco be an impulse product? It would seem to me that candy, to some extent, competes with tobacco. I am not going to carry that forward and suggest it should receive the same taxes, but it just crossed my mind that perhaps that is a competitive product.

COMMISSIONER WALLS: I take it you are saying that because neither you nor I smoke but do eat candy.

MR. SULLIVAN: Very good. That again is a difficult question because certainly to the smoker it is more than just an impulse. It is almost a necessity for some smokers. For the non-smoker the impulse would not

exist. The impulse to purchase confection goes right across the board to all types of people, et cetera. I mean, a smoker smokes and a non-smoker does not smoke.

2 COMMISSIONER WALLS: I would like to congratulate your industry on the success it has had even though you do credit it to the devaluation of the dollar and the austerity tariff, but certainly on a basis of ability to pay you have not got much argument for tax exemption from the figures you put before us.

Now, while the removal of this sales tax may have some benefit to your industry, is it not a fact one of your largest members in the chocolate business, in spite of the reverse effect of the devaluation of the dollar, now finds that they are going to be able to successfully go into the United States market and compete with Hershey and those other people? I was reading about that recently.

MR. SULLIVAN: Perhaps Mr. Davison would answer that.

MR. DAVISON: Mr. Commissioner, I believe I would be tempted to say it is because of that, with the devaluation of the dollar, it has now made it possible for the first time in a good many years for us to compete on some sort of a reasonably equitable basis with the American manufacturers in the United States. There are still many problems, I can assure you, but I think what we feel is that if we can expand into the United States market where there is no sales tax, it will help to offset the situation as far as the Canadian market is concerned.

May I just make one more point in connection with our reference to confectionery products as a food product?

The line of demarcation - we feel there is discrimination in that you can take a certain piece of confection; biscuits are sales tax exempt, and strangely enough, if you coat biscuits with chocolate, they are sales tax exempt and you get to a pretty fine line. Therefore, some chocolate bars or candy bars are sales tax exempt, just one or two, and the rest of them are not.

Again, it would almost be correct to say that they should be either one way or the other.

COMMISSIONER WALLS: I agree.

MR. DAVISON: Because, by and large, we are competing with other food products, and we feel that there is a discrimination factor, and I think the very fact that in Canada the annual per capita consumption is in the neighbourhood of fourteen pounds, in the United States, without sales tax, eighteen pounds, has some weight.

In other words, we think if we do not have a sales tax, if we merchandise efficiently, we could get our domestic consumption up to eighteen pounds fairly quickly without a sales tax.

COMMISSIONER WALLS: You bring forward another argument that has been placed before the Commission previously, and one which, so far, we find very hard to see eye to eye with the participants on. That is, you state your difficulty is competing with the imported product as a result of the method of collecting sales tax.

You pay sales tax as a manufacturer; you pay sales tax on your sale to the wholesaler or to the retailer, depending on whom you are selling to, within 30 days after sale. The importer pays it on the duty-paid

value arriving in Canada. I assume your main arguments, in that case, are the fact that within your price you have had to include certain administrative and advertising costs that you feel sales tax on the imported product does not have to include.

Is it not a fact, when customs tariff was established, it was established to protect the industry, to bring the price up into relationship with higher cost production in Canada, and that in effect the sales tax is not only on the American price but the sales tax is also on the tariff?

Also, is it not a fact that the imported products themselves, through national advertising in magazines, and so on, do pay that cost on the product that comes into Canada?

It seems to me it is very hard to define where they are getting any advantage over the domestic producer in sales tax, and if you care to enlarge on that, we would be very interested.

MR. SULLIVAN: The importer in Canada is the one that has the advantage. The overall cost to him - granted, there must be a certain amount of advertising built into the cost at the point of origin, and whether or not this advertising flows into Canada is another question; maybe it does. After all, our main imports, incidentally, come from the U.K. rather than the States.

The importer still does not pay more or very little more for the bars than the manufacturer in Canada has to pay for the cost of manufacturing. Therefore, at that stage, they are almost level. In addition, however,

the domestic manufacturer must advertise. He has certain selling expenses, administrative expenses, et cetera, et cetera, on the total of which the taxes apply, whereas the importer, having once paid his tax, he is then free to have his extra costs without any tax applicable thereon.

COMMISSIONER WALLS: Then, my next question would be: if the sales tax was moved forward to either the wholesale level or retail level, it would remove that inequity?

MR. SULLIVAN: If it were placed on the ---?

COMMISSIONER WALLS: On the product.

MR. SULLIVAN: On the sale by the importer.

COMMISSIONER WALLS: On all products. If the sales tax, instead of being collected at the manufacturers' level, say, at point of import; if it was now collected between the wholesaler and retailer or a retail sales tax, then it would place you all in an equitable position?

MR. SULLIVAN: Yes, I believe that would be the same for all industry, not just the confectionery industry. I mean, the same problem, I believe, exists in other industries, not just in the confectionery industry.

THE CHAIRMAN: Mr. Walls, can we return to the first question that you asked, regarding the difference between imported and domestic goods? I do not understand the reply to that, because I would have believed that the purpose of the tariff is to place imported goods in an equal position to domestically-produced goods, and they must be purchased abroad at a fair market value, I think, in the country of export, and I believe that is taken to be at the same level as would have been the case in Canada.

Therefore, they should pay the same charges, and if they do not, if the price is lower, somebody is liable for dumping duties, which is under an extreme penalty.

If I am correct in that, the duty is, in fact, carrying out its task, and I would have thought the result would be an equal base for the two. Is that not right?

MR. SULLIVAN: Mr. Chairman, in theory, I think you are quite correct. That is the function of a duty. Whether the duty is, in fact, high enough to accomplish that purpose is another factor.

THE CHAIRMAN: The duty may be wrong or the assessment may not be properly done, but really, what I am asking - is the principle a fair principle?

MR. SULLIVAN: It is a fair principle. However, in some countries, and I do not want to get into a whole field of the various, shall we say, encouragements for export that exist, but one example I might give, with respect to Ireland: when confectionery is exported there is a rebate based on sugar and sugar content to develop the sugar industry in Ireland itself. So that there are certain features that would make the price rather low coming into Canada.

F/PB/ss

THE CHAIRMAN: Does this rebate not offend some international treaty?

MR. SULLIVAN: Not to my knowledge.

THE CHAIRMAN: Mrs. Milne has a question.

COMMISSIONER MILNE: This question is in connection with paragraph 11 where you suggest that the exemptions of the sales tax would result in the utilization of more packaging materials which are Canadian made, I assume this to mean. I was wondering if you would enlighten us as to how that would happen or why that should happen. I am not familiar with packaging. Is it not mostly Canadian?

MR. SULLIVAN: Yes, it is, utilization of Canadian made packaging materials.

COMMISSIONER WALLS: Irrespective of the source of packaging you have to pay sales tax. I think what Mrs. Milne is bringing out, it seems to me you are already doing an excellent job of packaging. If there were more packaging it would result in smaller chocolate bars.

MR. SULLIVAN: What I mean by that statement is if we sold more chocolate bars obviously we would utilize more packages.

COMMISSIONER WALLS: Yes.

MR. SULLIVAN: If we sold twice as many bars we automatically use twice as much packaging material.

COMMISSIONER MILNE: I misinterpreted the paragraph. Thank you.

COMMISSIONER WALLS: I have one question, more for information than anything else. I am rather interested to see that the main competition is with the U.K.,rather

than the U.S. I presume that is mostly toffee.

MR. SULLIVAN: It goes right across the board, sir.

COMMISSIONER WALLS: It would seem to me in competition as far as chocolate manufacturers are concerned and other candies, that your industry is doing a very good job.

MR. SULLIVAN: I might suggest, Mr. Commissioner, that we are blanketed with imports from almost every country you can imagine including Japan, Israel, Ireland, Austria, Australia, Finland, Greece. The main one, of course, is the United Kingdom.

THE CHAIRMAN: Do you have an opinion whether or not the levels at which sales tax is imposed should be altered and placed at the wholesaler retailer level, or at the consumer level? We have had representations that it should be placed at the retail level.

MR. SULLIVAN: We have never discussed this in Committee, Mr. Chairman. I can't give this as the formal opinion of the Association, but if we must have tax, and we don't wish the tax at all, but if we must have tax at either the wholesale or retail level, it is preferable at the level where the consumer can see what is being paid.

THE CHAIRMAN: Your first choice if there has to be a tax is the retail level, and the second choice is the wholesale level and the third choice the manufacturers' level?

MR. SULLIVAN: That would be pretty much the thinking. Would you agree with that?

MR. DAVISON: As an industry I agree. As a Canadian taxpayer I believe that it is a pretty cumbersome method of taxing. With the retail business in Ontario and other municipal retail sales taxes, I would think probably from the Federal Government's point of view the present method is better. They are dealing with fewer people and it probably is a little more efficient. That is just a personal opinion.

THE CHAIRMAN: I am sure you are correct in that, but I would like to know what the opinion of your industry might be.

MR. DAVISON: Obviously we would like to have the tax exposed so the consumer is aware of it.

MR. SULLIVAN: One problem with the current method, having it built into your price structure it is a tax with mark-ups, wholesale and retail, and is a portion of the value of the product well beyond the 11% which is paid by the manufacturer. There are two profit margins.

THE CHAIRMAN: Pyramiding.

MR. SULLIVAN: Pyramiding.

THE CHAIRMAN: This is a word we hear so often used. Of course, if there is pyramiding it means the consumer pays the profit on the tax as well. If he didn't pay the profit on the tax somebody would get less profit, the retailers, presumably, or the wholesalers. I imagine both might get less profit than they are now getting.

MR. SULLIVAN: That is correct.

THE CHAIRMAN: Could they stand this? What would be the effect? Would you have bankruptcies in your industry?

MR. DAVISON: That is a very difficult question to answer, Mr. Chairman. Our retail selling price of $1.69 which includes the 11% tax and the mark-up between the wholesaler and retailer has to go up to $2.40. It would have some effect on those two industries. I don't know to what extent. We haven't given it any particular thought, because we haven't thought seriously of the sales tax being collected other than at the manufacturers' level.

THE CHAIRMAN: I am assuming that is what you are thinking of, because it is at the manufacturers' level that there is pyramiding. If there is pyramiding, somebody is obtaining a profit on the tax and if the pyramiding was removed because of the change of level that profit would disappear.

MR. DAVISON: That is correct.

THE CHAIRMAN: I am just wondering what the effect of the disappearance of profit would be. I don't think you are in a position to answer me, but I would suggest it might be well worth considering. One industry has suggested to us that it might cost each retail outlet as much as $1,200.00 a year.

MR. SULLIVAN: Perhaps, Mr. Chairman, we may be able to supplement our brief with some views on that.

THE CHAIRMAN: We would be very glad to have them. It is an important matter.

MR. SULLIVAN: Yes, indeed.

COMMISSIONER WALLS: With the increased use of vending machines for chocolate bars, what difficulty would be involved with the tax moved forward to the retail level?

MR. SULLIVAN: If tax moved forward to the retail level, and the ultimate price generally speaking of chocolate bars is five cents and ten cents, I presume that the tax would be paid by the owner of the vending machine.

COMMISSIONER WALLS: How is he going to collect the retail tax unless he turns out a cheaper bar, let us say a bar at eight cents and a tax of two cents?

COMMISSIONER PERRY: I think Mr. Sullivan's answer may be that small purchases are exempt from retail sales tax. Very few provinces go down to five or ten cents.

COMMISSIONER WALLS: I was thinking if the Federal tax was moved forward. There is no guarantee either we will recommend or the Government decide on that exemption. COMMISSIONER PERRY: I think they would decide it.

THE CHAIRMAN: Mr. Perry, you have a question?

COMMISSIONER PERRY: I am interested in the statement you make to the effect that production and sales of your industry would increase without this tax. Would you care to say how you expect this to come about assuming you are in this fixed five cent, ten cent price?

MR. SULLIVAN: It is rather difficult to prove. We have an indication of what has happened over the past year through the effect of dollar devaluation and through the tariff surcharge. This gives us a picture of what could happen when we are able to better compete and move in on the market previously enjoyed by confectionery of imported origin. If we were enabled to compete with food

products, compete for the consumption dollar, we feel that there would probably be an increase.

COMMISSIONER PERRY: In what way would you find you were better able to compete?

MR. DAVISON: We have found in the past when commodity prices have warranted increased values in the form of weight increases, and that is really the only way when selling chocolate bars at fixed five and ten cent prices, if we can increase the size of our bars --- for instance the cocoa bean fluctuates from 20 cents to 60 cents and when it gets to 20 we can make the bars a lot larger than when they are higher. We find that our sales have benefitted very greatly. We think the result of the removal of the 11% sales tax would increase the values in increased weight of our products.

We are sure that that would have a very substantial effect on the sales of the industry product again in competition with other food products that the public might buy.

COMMISSIONER PERRY: Thank you very much. I just wanted to hear you say that.

COMMISSIONER WALLS: I must return to the other point that my colleague took exception to. We collect sales tax on all of these chocolate bars at the manufacturers' level. Your five and ten-cent items; how big a percentage of your industry do they make up?

MR. DAVISON: I can speak for our company, but not for the industry. I think Mr. Sullivan could. Offhand, I would say probably 50% or more.

MR. SULLIVAN: Better than 50%.

MR. DAVISON: Maybe 75%.

COMMISSIONER WALLS: In fact, if the tax was moved forward to the retail level and it wasn't possible to tax small items of that kind we would lose about 50% of the tax we collect today; is that right?

MR. SULLIVAN: In one sense. If the sales tax was taken off confectionery and made retroactive for one year there would be available approximately fifteen million dollars from which 50% or better would be directed back to the coffers of corporate income tax, so you have the other half.

THE CHAIRMAN: Do you really think there would be that increase in corporate tax? Surely, if the consumption tax is passed on to the consumer profits are not going to be changed?

MR. SULLIVAN: I was saying if it was done

2 retroactively that fifteen million dollars would be back into the industry and a good portion of it would find its way back.

COMMISSIONER PERRY: There is a little bit of a dilemma here, if the amount that is now going out in consumption tax were replaced by more chocolate in each bar, therefore, your cost remains stable and there is going to be no increase in profit as a result of the change. The change would come as a result of the rate of consumption.

MR. DAVISON: That is right.

MR. SULLIVAN: More sales.

COMMISSIONER PERRY: More sales, yes.

MR. SULLIVAN: And more employment.

COMMISSIONER GRANT: This is a question for Mr. Davison. I believe earlier in the brief you said in answer to Mr. Walls that the devaluation of the Canadian dollar has resulted in the industry expanding in the United States; am I correct?

MR. DAVISON: That is correct, Mr. Commissioner.

COMMISSIONER GRANT: By that, do you mean your sales have expanded or has there been any expansion by way of establishing plants?

MR. DAVISON: It would be safe to say, up until a year ago there was practically no export to the United States at all. Now, within the last six months, most of the larger Canadian manufacturers have been studying the American market and several companies have started to sell from their Canadian plants. No one, I believe - and I am only, again, speaking for our own company, but I believe

3 it is true no one has seriously considered, at this stage, building plants in the United States.

This is a case of utilizing productive capacity, getting the benefit of lower cost per unit, and increasing employment and using of facilities. We have found with the benefit of the devalued dollar that we can do this competitively. Obviously, if the dollar were to go back to $1.05 we would be in a very different position. It is a gamble from start to finish. We would then have to, overnight, make some arrangements to produce in the United States. There would be no question about it. There are many other factors.

If there is a Gatt reduction in tariffs we feel we can compete on an equal basis if the tariff comes down. If that were to happen in the next year or so then we wouldn't be concerned about what might happen to the Canadian dollar at a later time. So far, all our export is from our Canadian plants.

COMMISSIONER GRANT: Whereas a premium dollar would assist you in establishing plants, the discounted dollar assists you in sales for export?

MR. DAVISON: That is correct.

COMMISSIONER GRANT: It means you are getting your product into the market?

MR. DAVISON: Yes, and in the long run we will have to consider that based on all other factors.

COMMISSIONER BEAUVAIS: What tariff rate is on candy entering the United States?

MR. DAVISON: Fourteen per cent. Getting back to this duty situation, we had the most adverse ruling that

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we could possibly have on the value of our product. The rate of duty is only part of the problem. The value at which the duty is paid is the other. We have just recently received in the industry a very adverse value for duty which has made it a little more difficult for the industry.

THE CHAIRMAN: You recommend, under the heading of personal income tax, proportional taxation rather than a graduated tax. This has a lot to recommend it, as you indicate in your submission. It is also very attractive, I think, to persons who pay more tax than average. Do you know of any countries that now have proportional income taxation? You might mention the U.K., which did at one time. It no longer has this sort of tax. I don't know of any now. There may well be some. Have you any views you would like to add to what is already in here in regard to that subject?

MR. SULLIVAN: We have been speaking in Canada, with great concern, of foreign-controlled corporations and the large investments made by foreigners, which are very welcome, but at the same time it does cause some concern. This would appear to be one method by which the Canadian that reaches the higher income bracket would have a little left over after taxes to invest in his own company and in his own country. I was interested in hearing a portion of the brief that was presented prior to our presentation, and it is true that the British do suffer from extensive taxation and they should be the very ones we are looking to. I wish I was a rich man.

G/MR/dpw

THE CHAIRMAN: The balance of your submission deals with duties. We have pretty well come to the

5 conclusion that duties relate more closely to trade policies than they do to taxes. That being so, we feel this area should not be considered to be within our terms of reference and we are not, therefore, going to deal with matters contained in your paragraphs 22 to 25.

MR. SULLIVAN: That was included simply as a very broad interpretation of the terms of reference under the general heading of "Revenue" and its impact on the general economy.

THE CHAIRMAN: I think there are a lot of people that would consider the terms of reference might be extended to that or might, in fact, extend that far. We do not believe they do.

COMMISSIONER WALLS: They are so broad, we would like to see them narrowed a little.

THE CHAIRMAN: I think those are all our questions. If you have anything further that you would care to say to us, we would be glad to hear it. If not, we thank you very much indeed for your appearance here this morning and your excellent submission.

We will continue to ponder it, and the matters that you raise are of great significance to us and to all of Canada. Thank you very much indeed.

MR. SULLIVAN: Thank you, Mr. Chairman and Commissioners.

THE CHAIRMAN: Mr. Secretary, is there any more business?

THE SECRETARY: That is all this morning, Mr. Chairman. Tomorrow at 9.30 we have the Anaconda American Brass Limited and later, a presentation by Mrs. Florence

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THE CHAIRMAN: We will stand over until 9.30 tomorrow morning.

--- Adjournment